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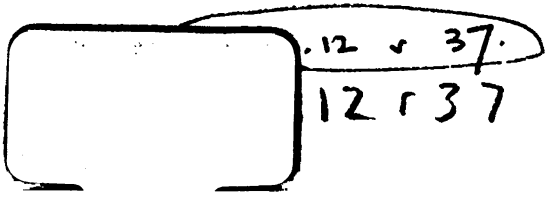

JAMAICA

UNDER THE

APPRENTICESHIP SYSTEM.

BY A PROPRIETOR.

Sir Francis Edwards 107

[by Peter Howe
2nd marquess of Sligo]

JAMAICA

UNDER THE

APPRENTICESHIP SYSTEM.

BY A PROPRIETOR.

" The Island is subject to the reproach, that the Negroes in some respects are now in a worse condition than they were in Slavery."—*Extract from the Ninth Message of Sir Lionel Smith to the Assembly of Jamaica, on the* 31*st October*, 1837.

LONDON:

J. ANDREWS, 167, NEW BOND STREET.

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NOTICE.

Since the printing of this Work, the Jamaica Papers to the 16th of November have been received:—they contain several Dispatches from Lord Glenelg, which were communicated to the House of Assembly. Many of the objectionable Acts appear to have been disallowed, and where they had already expired, such judicious instructions as to their renewal have been sent to the Governor, as almost to have rendered the remarks of the Author on the subject unnecessary. It is impossible for any real friend of Jamaica not to be gratified by the contents of these Dispatches.

January, 1838.

JAMAICA.

INTRODUCTION.

PUBLIC attention having been recently much directed towards the working of the Abolition Bill, and, in consequence of the examinations taken in 1836 by Mr. Buxton's Committee, more particularly to the present state of Jamaica, I am induced to employ the leisure afforded me by a temporary retirement, in puting together some few observations, which have been the result of the experience acquired during a residence of some duration in that island.

After the liberal gift of twenty millions to promote the cause of humanity, the British nation has a right to know what effect that sacrifice has had; and whether the negroes have received all those advantages which were contemplated, when its representatives voted so large a sum. Great benefits have, I am aware, resulted to them; but, without a moment's hesitation, I assert, that they have not been by any means such as were originally intended.

To me it appears quite impossible to deny, that much abuse of the intentions of the Abolition Act has taken place, —and that every species of evasion within the letter of the law—certainly far beyond its spirit—has prevailed.

But being aware that, however impossible such denial may appear to me, it still has been made in the most decided manner by the planters of that island, it becomes necessary to enter into more particulars than otherwise

might have been requisite, and to avail myself of the evidence which was given before the committee, wherever I may think it necessary for the support of my assertions. There was no person on that committee acquainted with the existing state of Jamaica; and therefore many mistakes were made as to the points on which the witnesses ought to have been examined. It appears that opinions were more sought for than facts; while, had the latter been produced, opinions—not those of the witnesses only, but of the hearers—would have naturally followed. The consequence is, that many circumstances which bear very materially on the ultimate success or failure of this great measure of humanity, have escaped observation.

It is my intention to point these out as far as I am able, and, for the purpose of throwing light on the subject, to add some details, which have come within my own knowledge.

In order to make the matter more clear, it will be expedient for me to give, as briefly as possible, an account of the more prominent occurrences from the period immediately preceding the 1st of August 1834, to the end of 1836.

Considerable apprehension was felt at that time, respecting the probable conduct of the negroes on the eventful 1st of August; a feeling, however, in which those who did not see how it could be the interest of the slaves to interfere with the progress of an enactment so manifestly for their benefit, did not participate.

Anticipations however of a general massacre of the whites were entertained by many alarmists, and, among the great majority of the planters, a deep-seated but indefinite fear prevailed extensively. It was fortunate in my view, that this opinion did prevail, as, without it, the measures essential to the success of the abolition act would not, as I think, have been passed by the legislature.

Much anxiety as to an immediate meeting of that body for the purpose of making preparations for the great approaching change, had been evinced during the whole Spring: various causes having, however, contributed to delay the arrival of the Marquis of Sligo, the intended successor of the Earl of Mulgrave, till the beginning of April, it was not until the first week in June that the Extraordinary Session commenced. For the reasons abovementioned, the Members of the Council and Assembly appeared quite ready to meet the views of the British Government as to precautionary measures; and in compliance with the wishes expressed in His Excellency's opening speech and in his various messages to the two branches of the Legislature, they at once passed an Act in Aid of the original Abolition Law, containing all the provisions recommended by Mr. Stanley, with the exception of one only, namely, that of apportioning to the apprentice some part of the pecuniary penalty inflicted by the law on the master for a breach of its enactments. Of the impolicy of acceding to this recommendation the Assembly were so decided, that nothing could have changed their opinion,—and, indeed, all those who possessed any knowledge of the feelings of the two parties—master and apprentice—towards each other respectively, thought that its enactment would occasion more jealousy on one side, and more frivolous complaints on the other, than could be imagined by any person not acquainted with the state of their mutual relation, and that the result would practically be, rather to create discord than to promote harmony. It appears, therefore, to have been fortunate that it was not farther pressed on them.

The Assembly also voted a police law, which, though in some respects to be approved, was quite inadmissible on other points, more particularly as it did not vest the

authority over the police exclusively in the Executive. It having been known, indirectly, that the Governor felt it impossible, under his instructions, to assent to such a bill, a readiness to reconsider the measure was expressed, out of the House, by most of its members. A prorogation for a day was granted, in consequence, with the view of giving an opportunity for so doing;—and all parties agreeing in the absolute necessity of providing a well-organized police force previous to the 1st of August, a bill to that effect was passed with all practicable speed, on an excellent and efficient plan.

From the disposition subsequently shewn by the House of Assembly, it is to be surmised that their ready compliance with the various amendments suggested to them, originated more in their alarm for the future than in any desire to meet the wishes of the British nation—wishes to which they have proved themselves singularly blind ever since, even during the administration of the present Governor of Jamaica, in whom they have expressed unlimited confidence.

The memorable 1st of August at length arrived, and instead of being marked by the flowing of blood, insurrection, and disturbance, as anticipated, it was celebrated and made memorable, by the most extraordinary, nay, the almost universal, attendance of the negroes at the different places of worship. The great majority of the slaves,—I think it no exaggeration to say nine-tenths of the whole black population,—are either Baptists or Wesleyans. The chapels of those sects, which are of considerable size, were opened for Divine Service five or six times during the day, and were each time crowded, to an inconvenience in such a climate, by a succession of negroes, till all present had been enabled to offer up their expressions of gratitude to the Supreme Being for their newly acquired privileges.

It is said, and generally believed, that not a single drunken man appeared during the whole of that day in the streets of any of the principal towns. On the subsequent days, more particularly that on which they were to return to their work, no cause for complaint was given, excepting in one instance. In the parish of St. Anne's alone, was there exhibited any disposition on the part of the negroes to secede from their usual labours. This occurred on the Monday after the first of August, the day on which they were to resume their former occupations for a diminished number of hours in each week. At Shaw Park, the seat of Mr. Walker, a member of Assembly, they threw down their hoes, and other agricultural implements, declaring that King William had "given them free," and that they would not therefore work any more without payment. An account of this event was sent to the Governor by an express messenger, who also informed him, that all along the road the Militia had been called out by the authority of a planting attorney in St. Anne's. In the absence of Sir Amos Norcott, who happened to be on a tour of inspection, Lieutenant-Colonel Sir Henry Macleod, then Deputy-Adjutant-General of Jamaica, holding the local rank of Lieutenant-General of Militia, was directed to proceed with two companies of the 37th, in the Rhadamanthus steamer, round the east end of the island, to Ocho Rios Bay, which is close to Mr. Walker's house, for the purpose of putting an end to this ill-advised proceeding, and of preventing this spirit of insubordination from spreading, and infecting the other negroes. With the zeal and energy which peculiarly marked that officer, and Captain Evans of the Rhadamanthus, the troops were put on board the same night, and reached Ocho Rios Bay thirty-six hours afterwards. Just before daylight they were landed, and marched up to Shaw Park. The negroes were assembled

and addressed by Mr. Ramsay, the Inspector-General of Police and a Special Justice. Having in vain exhorted them to return to their work, he was compelled to administer corporal punishment to a few; and those were, of all the negroes in Jamaica, (340,000 in number) the only persons who suffered in the slightest manner, or exhibited any reluctance to comply with the new order of things. In point of fact, they really did think that they were defrauded of their freedom by the Governor, for corrupt purposes: they said, in their own language, "Gubernor Mulgrave gave we free, but Gubernor Sligo keep we slaves because him hab slaves of him own." In vain were they shewn a copy of the Abolition Law, with Lord Mulgrave's signature, and told that he never promised them freedom such as they expected; they refused to believe it. They would not even take Sir Henry Macleod's word; in vain did he exhibit his red coat, as a King's officer, a circumstance which, at any other time, would have procured him implicit credit and obedience: at length they declared, that "if he would go down to St. Anne's Bay, and make affidavit that they were not defrauded of their rights, they would go to work." He did not comply; yet they all returned to a due state of subordination, and perfect tranquillity was restored. Thus ended the anticipated massacre and insurrection. Not the slightest indisposition to resume their work was exhibited by them at any place in the Island except on this and an adjoining estate; and even that ceased, as I have above related, the moment the troops appeared. It is curious to remark, that such a spirit of insubordination should have occurred nowhere excepting in a parish in which the resident gentry had shown themselves previously to be the most opposed to the British views in Lord Mulgrave's time, and in which the "Colonial Union" may be said to have originated.

The terrors of the planters as to the conduct of the negroes having thus subsided, they postponed the period of their anticipated alarms till the Christmas holidays; but it appeared that in this respect they were again mistaken. The anniversary of the 1st of August was next fixed upon as the time of danger; subsequent events have shewn how completely deceived in their calculations were these gentlemen, who silenced all who differed in opinion with them by saying, "We, who have been so long in the island, must know its state better than you, who have so lately reached it;—you don't know the character of the negroes."

It would have been fortunate for the Proprietors if no harm, except this fright of the attorneys and planters, had resulted from perhaps well-founded anticipations; but it turned out, in consequence of this feeling, and of their settled conviction that nothing would make the negroes work, that they neglected to put in the usual quantity of canes, and the crop of 1836 necessarily became much diminished. This diminution, which was owing to the prejudice, to the insuperable prejudice, of the planters,—a prejudice which has been proved to be utterly destitute of foundation by every subsequent event,—was most unjustly considered by the proprietors at home as having been occasioned by a disinclination to work on the part of the negroes. In some instances, probably, it was so represented to them by the attorneys. That the latter really thought they would not work, I am confident; and it might be naturally supposed, that they communicated their own impressions to their principals, and likewise the fears of other attorneys, who, in the House of Assembly, and in private conversation, expressed such fears as the result of their observations and experience. In other cases, where no cause for the deficiency was reported, excepting generally

the bad working of the new system, the natural inference of the proprietor, who had not himself seen the actual state of things, must have been, that it was owing to the fault of the negroes. Now, in point of fact, it was owing to the conduct of the attorney in either of two cases: first, if the attorneys or their overseers neglected to put in a sufficient plant; or secondly, if the negroes refused to work, because, in the latter case, that refusal is to be attributed to the injudicious and perhaps unkind system of treatment adopted by the managers previous to emancipation. Continual representations were made to the special magistrates, that the apprentices were doing no work for their master in his legal time, that they would not work for wages, and, finally, that their insolence was unbearable. When those officers, in the exercise of the discretion entrusted to them, did not think the offences proved deserving of the punishment which the overseers thought they merited, they were sometimes personally insulted, but more generally the most frivolous complaints of their partiality were poured into the Governor's office. The public prints, besides, were full of abuse of these magistrates, and they were accused of being in the pay of the "Aldermanbury Gang," as the "Anti-slavery Society" is termed in Jamaica language. The fact is, that these attorneys and overseers had been bred up in the exercise of the most arbitrary authority; and without charging the inhabitants of that Island with unusual culpability, it cannot be denied that abuses of irresponsible and arbitrary authority will every where prevail. If it were not an irresponsible and arbitrary authority in the letter of the law, it was so in the spirit and fact. Surely the cases of such abuses as have been discovered and punished will not be adduced as a contradiction of this assertion;—they are quite the reverse. When such a spirit is exhibited, and when the person exercising it does not appear after-

wards to be thereby disgraced; when, on the contrary, if he be punished, he is considered as a martyr, and the great majority of his neighbours become his loud partizans, and raise a cry of oppression, is it not a reasonable conclusion, that his offence is not one in their eyes? is it improbable that they would not scruple to act in the same way themselves, if they thought that they could do so without detection? I am convinced that the majority of the overseers and planters expected at first that they would obtain as much labour from the apprentices when the law gave the master only forty hours and a half per week of their services, as when, in point of fact, though not in point of law, there was no limit to their exactions but the powers of endurance in the slaves, and their own opinion of what it was their interest to require. Being disappointed in this expectation, they became irritated, and used gross language towards the negroes, from which, even to this day, it is notorious that they cannot refrain. The negroes, who appear to be quite alive to their newly acquired privileges, may probably have got sulky under such treatment, and have given answers which, during the time of slavery, would have subjected the offender to immediate punishment with a cartwhip. Thus it is that ill-will on one side has generated ill-will on the other, and that a mutual distrust has arisen. This will, no doubt, materially endanger the ultimate success of the Abolition measure, so far as the procuring from the free will of the negroes the labour which they had previously given from the stimulus of flogging, is concerned; and therefore it is much to be lamented. No matter on which side the fault lies, the effect cannot but be very injurious in the end to both.

In page 163 of Appendix to the Report of Mr. Buxton's Committee, will be seen a striking example of the beneficial

effects of a contrary line of conduct, where the judicious system adopted by that most excellent and humane person, Mr. Hutchinson Scott, of Hopeton, in St. Elizabeth's, has procured him so much hired labour from the apprentices of the Bog Estate. Yet, on the estate which adjoins Mr. Scott's, and which is very badly managed, the acting attorney has loudly complained that he could not get one of his apprentices to work for hire. Had Mr. Scott's plan been adopted on other estates, there would have been no complaint of want of hired labour, or of the insufficiency of work performed in the legal time. A different course, however, having become general, and the Governor having received repeated representations of the insufficiency of the labour of the apprentices in their master's time, as well as of their unwillingness to work for hire, determined to investigate the fact, and accordingly issued a circular early in March 1835, calling on the special magistrates to ascertain, by close inquiry on all the estates on which they could procure information, the comparative quantities of sugar made on them on the 28th of February of each year respectively, in 1834 and 1835; the day on which in each year crop commenced; the number of hours of labour per day in each year; and the quality of the sugar made. The result was, that the quality, generally speaking, was better in 1835, and that nearly twice as much sugar was made by the negroes per hour, since emancipation, as was made in the previous year, during slavery. On the majority of estates there was certainly a decrease, but it can be shown that this decrease in no way exceeded what might have been expected from the diminution of the time legally belonging to the master, when combined with the fact that, not unfrequently, under the plea that the estate could not afford it, the attorneys refused to give wages for additional work. On many estates, however, there was a decided increase in the year

1835. The returns which prove this may be seen in the second part of the Parliamentary Papers on the Abolition of Slavery, No. 278, ordered to be printed on the 10th June 1835, pages 19 and 36, and page 19 of the other Paper, No. 238, ordered to be printed on the 15th April. These reports will dispose of the question whether the Negroes worked sufficiently in their masters' time or not. Shortly after, the Governor sent home memoranda of facts which had come to his knowledge, and his deductions from them; they are published in the same second part of No. 278 above alluded to, page 216; but a copy of them, marked (A), is inserted in the Appendix hereto annexed, in order that it may be seen whether those anticipations were well or ill founded.

It having thus been proved that the apprentices were doing more work than they had done when slaves, farther inquiries were made on the second point asserted, namely, that they would not work for hire. The result of these inquiries appears in the pages 268, 269, and 270, of the Parliamentary Paper, No. 238. The returns, which are there printed, prove, in a perfectly satisfactory manner, that, on nine estates out of ten, the negroes have actually worked for hire. This ample contradiction of the two assertions, shows that very little dependence is to be placed on the reports of the planters. If farther proof be required, it will be found in a memorial, signed by seventy-three of the principal inhabitants of the parish of Trelawney, which was sent to the Governor in May 1835, and appears in the paper No. 238, page 44. In it a representation is made as to the state of the cultivation of the parish, which is directly contradicted by the letters of the four special magistrates in charge of it: their letters, and the proofs they give, appear in the pages immediately following the memorial. That the Governor should have been able to

procure any information appears fortunate; as, in page 46, in the letters of one of those justices, Mr. Hawkins, it is stated that Mr. Miller, a member of the Council, the Custos of the parish, the first signer of that memorial, and the individual who officially forwarded it to the Executive, had expressed great discontent with his Overseer for having afforded information respecting the state of the property in his charge. Any remark on this fact would be superfluous. In the statements thus made, these gentlemen certainly had not the slightest idea of any intentional misrepresentation: no doubt they were quite incapable of it: they appear, however, like most of the other planters from different parts of the Island, to be so strongly prejudiced, that a colouring is given to all their opinions. That their opinions do bear that colouring, and that they are not correct, has been sufficiently shown by the extracts referred to.

Early in August 1835, a summons for an extraordinary session of the Legislature was issued by the Governor, and great anxiety prevailed to know the cause of the unusual session. The public prints declared it quite unnecessary, found great fault with it, and made the most ridiculous guesses at the measures which it was intended to bring forward on the occasion. The Assembly were exhorted in the strongest manner to refuse at once to enter on any business; and it appears that some effect was produced by these paragraphs, as the Assembly framed a most intemperate address, in reply to the Governor's opening speech. In fact, it was of such a nature, that he gave them no answer at the moment, except a simple acknowledgment, and dissolved the Legislature the same day. At the election that ensued, several changes in the representation took place; and, at some of the hustings, the members were called upon not to oppose Lord Sligo's administration.

The new house met in November; and having commenced proceedings in the best possible temper, there was every appearance of the business of the country being carried on in a most satisfactory manner. The Act in Aid, and the Police Bill, went through their first committee, and were presented to the House in precisely the form in which they originally existed; but in the midst of this agreeable state of things, a packet arrived from England, bringing letters from the agent, to which may be attributed the immediate and marked change which took place in the appearance and disposition of that body. That these letters produced the effect attributed to them cannot be questioned. The next day the two bills were altered again in committee, and the Act in Aid so changed, that it could by no possible means be accepted. Not till a week or ten days after was any notice taken of the Parliamentary Paper, No. 278, there termed "the Blue Book," which came out by the same packet, when the attention of the House was called to a paragraph in one of His Excellency's dispatches, No. 38, 27th March 1835, wherein he stated that the parish of St. James's appeared, by the returns he then sent home, to be in the worst condition of any in the Island—that it had been so in all previous times—and that it now exceeded all others in party spirit.

That Lord Sligo was justified in the assertion he made, will hardly be doubted by any person unconnected with the parish, yet acquainted with its character. But should any farther testimony be required, it will be found in the Parliamentary Paper on Slavery, part 111, No. 242. In consequence of the vehemence with which the truth of His observations was denounced in the Assembly, He ordered extracts to be made from the weekly returns of the Special Magistrates, enumerating every instance of oppression which had come

before them for adjudication. At pages 230, 258, 349, 373, and 393 of that Paper, will be found five of those returns for as many consecutive months, and in every one of them, the convictions in the parish of St. James's exceeded the number of those in any other parish in the Island. A meeting of the parishioners was called, and violent resolutions, contradicting that dispatch, were proposed. It appears, however, that they were negatived by a majority of that meeting, and that resolutions of a very different character were adopted. Two hundred and fifty copies of that part of the Parliamentary Paper which referred to Jamaica, were ordered to be printed by the House of Assembly, of which ten copies were distributed gratis in each of the parishes, for the professed purpose of getting up contradictions to those dispatches, which they pronounced, without hesitation, to be complete misstatements. After much exertion, and some delay, one fancied mistake was discovered in the case of a Mr. Nockells of Mount Pleasant, in the parish of St. Thomas in the East, when, as it afterwards appeared, the omission of the word "absent," made a change in the sense of a paragraph: this word was omitted in the copy sent to the Governor, but appeared in that which Mr. Lyon, the Special Justice who made the report, swore to be a correct copy. This was purely a mistake of Mr. Lyon, in copying his report, and no sort of insinuation to his disadvantage was ever made in consequence: no magistrate in Jamaica ever bore a higher character. Their failure in getting up these contradictions, which it was notorious that they were most anxious to effect, exhibits a farther instance of the insufficient grounds on which they made the most hardy assertions, and formed the most hasty opinions. The business of the session not having concluded before Christmas, an

adjournment till the latter end of January, a period of about six weeks, was granted, when the Legislature met again, and got through all that it chose to undertake, leaving several important measures quite unnoticed. The Police Bill, though far from being a perfect measure, was assented to; but the Act in Aid was of a nature which could not be accepted, and Lord Sligo therefore refused his assent. During this adjourned session, while the Act in Aid was in course of discussion, in his anxiety to promote the passing of such a measure as would meet the wishes of the British nation, the Governor remonstrated with the House of Assembly on the insufficient nature of the bill in progress. He wished to obviate the necessity of pointing out to the world the fallacy of the pretensions of that body; since an appeal to the Imperial Parliament, rendered thereby imperative, would at once prove the right of England to legislate in cases of contumacy for a colony possessing a legislature of its own. His remonstrance was tendered just in the same manner, and at the same stage of the bill, as that at which Lord Mulgrave before interfered in relation to the Abolition Law. The House of Assembly, however, not taking that view of Lord Sligo's motives in interfering, thought fit to enter a protest against it as a breach of privilege; and declared, in a message to His Excellency, that no more business could be transacted, until reparation had been made for this alleged invasion of their rights.

The result was, a prorogation for a day, accompanied by a speech, of which an extract, marked (B), will be found in the Appendix.

The House of Assembly forwarded a long memorial to the British Government, contradicting every word of this speech.

It will remain for those who have an opportunity of re-

ferring to the Journals of the House of Assembly, to determine whether the Governor's speech, or their memorial, contains the most faithful representation of the actual state of things at that time in Jamaica.

The prorogation was however unavailing, and the House finally separated without transacting any business. The consequence of their decision on this point was, that the Imperial Parliament was compelled to assert its right to legislate for any part of His Majesty's dominions, whether chartered or not. A greater proof of want of judgment could not have been imagined. The Assembly arrogated to itself, and still does, rights superior to those of the House of Commons. It denied the right of British interference, and subjected itself, by its obstinacy, to the decided mark of the absurdity of its pretensions, which the subsequent enactment of the Act in Aid in England made public to the world. The members could not have supposed that they would have been allowed to nullify the English Abolition Act, by leaving unrenewed those important additional enactments which Mr. Stanley had required of them, merely because, in an honourable confidence in their faith, he had moved his Majesty to declare in Council, that the Island of Jamaica had rendered itself entitled to share in the compensation money before those additional laws were made co-existent with the Island Act. As soon as intelligence was received from England that the Act in Aid had passed the British House of Commons without opposition, notice was given of an immediate session, which was opened with an entreaty that the members would, by a speedy consideration of the measure, do that which was really most advantageous for themselves, namely, re-enact the old bill, and make it law before that which was in progress in England should be completed and come into operation in the Island. After some blustering and differ-

ence of opinion, the good sense and eloquence of a leading member of the bar and of the Assembly, prevailed on the House to reenact it. The bill was passed, and having received the Governor's assent, became law, before the account of the completion of the British Act was announced; the administration of England having wisely and considerately delayed its progress through the Imperial Parliament, for the express purpose of allowing time for this being done.

Thus had matters proceeded in this colony up to the end of August 1836, when Lord Sligo resigned the government of the Island; and it is to be remarked, that all the successive periods of alarm, prognosticated by those who declared themselves to be possessed of superior knowledge of "the state of Jamaica, and the character of the Negroes," a knowledge which few planters will allow to any one who differs in opinion with them, passed off without the slightest disturbance. As both parties began to understand the law better; as the planters had certainly, at one period, lost much of their angry feelings; as the negroes had learned what the planters had a right to expect from them, and discovered that the special magistrates would enforce those rights, a confident hope was entertained that all would go on smoothly till the termination of the apprenticeship, and that their mutual good feelings would each day increase.

It was supposed that with another Governor, against whom so strong a prejudice was not entertained, because he would not have, like Lord Sligo, to fly in the face of all their accustomed habits, they might get on more quietly. Much certainly is to be said in extenuation of the conduct of the planters towards that nobleman. It had been his duty to punish them for conduct which had been legal till

the 1st of August, 1834; to teach them that the authority they had previously exercised was become criminal; and to justify the special magistrates for doing what was indeed most offensive to them, but what was in fact the object for which they were sent out to Jamaica. The planters thought that the new system was effecting their ruin; and not being able to separate the man from the measures which it was his duty to pursue, they visited him with their most angry feelings. They looked upon the dissenting Missionaries also as the fomenters of rebellion, and promoters of discontent and disobedience on the part of the negroes; an opinion often maintained in England by persons connected with the colony. Lord Sligo, after a very short period, expressed his conviction of their great value; acknowledged the obligations which were due to them for their exertions to promote the spiritual instruction of the blacks; and stated that, in his opinion, almost all the religious feeling which existed among the slaves was derived from their efforts. That such is the truth cannot be denied; and it is equally true that their unpopularity arose from their having confronted all dangers, and nearly encountered martyrdom, by their noble attempts to protect the slave from severities, which though then permissible by law, could never be considered justifiable in the sight of God. They were too loyal subjects, and too good Christians, to be guilty of what they were so generally reproached with; namely, trying to make the negroes discontented with their lot, or, as the usual phrase runs there, "disturbing the minds of the negroes," or exciting them to revolutionary projects. The disturbance of the mind of the negroes consisted in their boldly opposing every danger to protect them from the abuses of the law as it then stood; and, inducing them to bear patiently the grievances of which they complained, by pointing out to them the certainty of approaching relief through

the medium of the British Parliament. These men were truly objects to be cherished; and the support they received from Lord Sligo was one cause of his unpopularity in the colony, and of the resolute opposition which his measures encountered.

This brief statement cannot terminate better than with a part of the Report of the Committee of the House of Commons, moved for by Mr. Buxton; see page 8 of the Report:—

"Your Committee have thus commented on the principal points which have been brought before their notice; and upon a general review of the evidence which they have received, they conceive that they are warranted in expressing a belief that the system of apprenticeship in Jamaica is working in a manner not unfavourable to the momentous change, from slavery to freedom, which is going of there.

"They perceive undoubtedly many traces of those evils which are scarcely separable from a state of society confessedly defective and anomalous, and which can only be defended as one of preparation and transition.

"But, on the other hand, they see much reason to look forward with a confident hope to the result of this great experiment: in the evidence they have received, they find abundant proof of the general good conduct of the apprentices, and of their willingness to work for wages, whenever they are fairly or considerately treated by their employers. It is indeed fully proved that the labour thus voluntarily performed by the negro is more effective than that which was obtained from him while in a state of slavery, or which is now given to his employer, during the period for which he is compelled to work as an apprentice. The mutual suspicion and irritation of the different classes of the com-

munity appear to be gradually subsiding; and on the part of the negro population, industrious habits, and the desire of moral and physical improvement, seem to be gaining ground."

JAMAICA.

ADMINISTRATION OF JUSTICE.

THERE is no point connected with the present state of Jamaica, on which so much might, and ought to be said, as that of the administration of its laws, not only by the judges, but by the magistrates and their subordinates.

In all countries the administration of law involves considerations of the highest importance; but nowhere more than in a place where one class is exclusively placed in authority to decide on the conduct of another class, in which it has a deep interest, but for which it entertains an avowed contempt; and from which it is separated by the strongest prejudices, originating in the habits of arbitrary government attendant upon slavery, but regarded, until the year 1834, as even natural and legitimate. Those who are acquainted with the West Indies will be aware that the black and coloured population are viewed by the white inhabitants, as little more than semihuman, for the most part as a kind of intermediate race, possessing indeed the form of man, but none of his finer attributes. Every guard, therefore, and security, which can be imagined, ought to be adopted for the purpose of ensuring to this numerous class, now fast rising into importance, an equal share in the benefits of the constitution of their country.

To commence with the *Judges*.

The Chief Justice was formerly selected by the Governor from among the gentlemen practising at the bar of the

Colony, and recommended by him to Her Majesty, whose fiat was necessary for his ultimate appointment. In the present instance, however, this office is filled by a regularly educated English barrister. The salary is £4000 a year currency, with certain fees and allowances not exceeding £200 a year, making altogether a sum of about £2600 per ann. sterling. As this remuneration is not given by any permanent law of the Island, when any person, not having practised a certain number of years at the Jamaica bar, is appointed to this office, a separate enactment in his favour becomes necessary. Previous to receiving his salary, he must undergo the ordeal of pleasing the planters in his mode of administering the law; and he is therefore wholly dependent on their approbation for his means of existence; a position most undesirable for the principal legal authority of the island, and one from which that officer ought to be rescued by the Government at home. The present Chief Justice was kept nearly two years without any remuneration. It was not until the second session after his arrival, that his salary was voted to him: and though he at last succeeded in obtaining the grant, without the slightest compromise of principle, it is not to be supposed that all other persons similarly situated will be equally fortunate.

The puisne judges are named by the Governor, and their commissions issued at once. It is his duty of course to report all such appointments for Her Majesty's approbation, but it has rarely occurred, that any objection to them has been made. They are selected from among the resident gentry, consisting, generally, of either estates-attorneys, solicitors, doctors of medicine, or merchants. The salary for each of the two senior puisne judges of the grand court, which sits for Middlesex, at Spanish Town, is £700 currency; and for each of those in Surrey and Cornwall, sitting at Kingston and Montego Bay, £500 annually. All the others serve, at first, without pay, but succeed to it

by seniority, provided that they have sat as judges a certain number of days in each year. The juniors rarely exceed the appointed number of these days, except to oblige a friend by taking his turn. None of the barristers would accept these commissions, because they gain much more by practice. It therefore remains for the Governor to make the best selection he can among the civilians of the colony. The great majority, in consequence, are estates-attorneys, who have administered the slave law in detail, from their first arrival in the island till its extinction; and even now, almost all managing large gangs of negroes. Those who are exclusively attorneys, all began as book-keepers during the times of slavery, when they had plentiful occupation, and certainly no time for studying jurisprudence, or even for enlarging their minds by education. Those who are physicians, have, it is to be supposed, educated themselves for that profession solely; and the merchants, of course, have passed their time in their counting-houses. With the exception, therefore, of those who have been solicitors, the rest have not even the pretence of knowing any thing of law, but instead of it, are declared to possess a "knowledge of the negro character," (the constant cant of Jamaica), and of the "habits and customs of the colony," which it has been gravely asserted, renders them much more fit to administer the law as judges, than any barrister who had practised in the English courts, (See Burge's Evidence, 3408, 3409).* What can usage or the character of the culprit have to do with law in the decisions of the Judge?

* Mr. Barrett, in his speech made at his election, on 28th Sept. says —"It is the constitution of our Courts, that gentlemen of the Colony should be judges therein, and I believe it to be a wise provision of our forefathers, and a great protection to our liberties and property. I hope I shall never see our seats of judgment entirely occupied by Lawyers from Westminster Hall, strangers amongst us, and ignorant of our laws and customs, even if they were not equally ignorant of the laws of the country from whence they came."

The difference between the English statutes and those of Jamaica, is not one of principle, but of detail; and any barrister, accustomed to legal pursuits at home, would in a very short time make himself master of those small distinctions, which a difference of social condition and local circumstances has rendered desirable in the colony. I cannot at all agree with Mr. Burge, in his Evidence before Mr. Buxton's Committee, when he states, "that the constitution of the Jamaica courts has been found to answer extremely well." It did so indeed, in the opinion of the planters, during the existence of slavery, when there was but one interest, one party in the country,— when there was no individual who dared to expose the delinquencies and deficiencies which he could not help seeing every day in the common occurrences of life; when any person, who exhibited feelings, such as at the present time would be considered highly honourable, would have been persecuted, and looked upon as little less dangerous than a mad dog; when any newly-arrived settler, who happened to possess ideas on slavery different from those which were then the fashion, was secretly warned by his more experienced friends, that if he expected to get on in the colony he must entirely change his sentiments; when, to detail a specific instance, Lord Belmore, from being the most beloved Governor of all who had really interfered in the business of the colony, became unpopular, merely because he made use of one phrase, viz.—"The resources of Jamaica will never be fully developed till slavery be abolished!" When the expression of such an opinion acted as a sentence of excommunication on that most amiable and popular viceroy, what would have been the fate of any private individual, who should have been audacious enough to insinuate that an ignorance of law had been evinced, or even a slight error had occurred in the decisions of the congregated aristocracy

of Jamaica sitting on the judicial bench? The only persons who, at that time, ventured to make remarks on the conduct of even the subordinates of the estates, were the Missionaries of the various dissenting sects. A history of the persecutions they underwent in consequence, would sufficiently exhibit the danger of any interference with the judicial character. It has been admitted, however, in evidence, (see Burge, 3413) that there has been reason, though unnoticed, to find fault with their decisions in civil cases. This, I think, affords an argument in favour of my position, and proves that some change is requisite. Its necessity has, in fact, been admitted, and the difficulty of paying the judges has alone prevented its adoption. The case of Mason and Oldrey has conferred that benefit on the colony. (See Buxton's Committee Report, Oldrey's Evidence, 2868, et seq., Appendix, page 237, et seq.) On that trial, there were present only three of the puisne judges, in consequence of the illness of the Chief Justice, and the junior of these puisne judges arrogated to himself the duty of charging the jury, although it appertained to the senior sitting judge. He made, during the trial, many remarks, with which Captain Oldrey's counsel thought they had reason to find fault; and declared in his charge, "that, in his opinion, the special magistrate had no right to ask an apprenticed labourer what complaint he had to make; but must confine himself to going upon a plantation, and to receiving such complaints as may there be tendered to him, and to holding a court in or near it to decide upon them." Surely a person who would make so great a mistake on a point of law, is not fit to be entrusted with the solemn and important duties of a judge of assize.

This evil could be remedied, in a very simple manner, without any new enactment, did not a pecuniary consideration intervene. Let the Governor be directed to

appoint no more judges in the colony; and let two barristers of six years' standing, duly qualified, be sent out for the purpose of filling those commissions. There are now, perhaps, half-a-dozen judges of the grand court, and as many judges of each of the other two courts; of these, only the two seniors of each court, six in all, receive salaries; the rest, as they receive no remuneration, would have no just cause of complaint if they were removed from the bench. It is Her Majesty's prerogative to strike out of the judicial commission whomsoever she chooses, and no discredit whatever would attach to the persons so removed, in consequence of its being a general, and not a particular, measure. If this were done, there is little doubt but that, after some time, the colonial legislature would find so much benefit from the substitution of legal in the place of *lay* judges, and from having the forms of the courts more assimilated to those of England, that it would in consequence pass an enactment, confirming, and providing means for carring into effect, those excellent alterations recommended by Mr. Burge, in Reply 230 of the Examination of the Commissioners of Legal Enquiry, and quoted by him in his answer to Question 3410, before Mr. Buxton's Committee. "I think," he says, "it would be an improvement in the administration of the civil and criminal jurisdiction of the supreme and assize courts, if they were more assimilated to the courts of Nisi Prius in England: all causes should be tried before a single judge, and thus, motions for a new trial, or arrests of judgments, should not be heard before, or decided by, the same judge who sat on the trial, but such motions should be reserved for, and disposed of by, the supreme court, also consisting of the full bench; but this improvement would not be complete, unless the judges of the supreme court were men of legal education. Such an arrangement would render

necessary the appointment of assistant legal judges at the assize courts, who should be included in all three judicial commissions, instead of being, as the judges now are, confined in the exercise of their duties to one of them."

The want of the small pecuniary means required to effect this great benefit to the colony alone prevents its being accomplished by a notification of Her Majesty's pleasure to the Governor of Jamaica. All the judges who now enjoy their salary would still continue in office during their lives, and as they vacated their places, the barristers would succeed to them. The very circumstance of these persons having become entitled to their salaries by seniority, renders it most probable that vacancies will ere long occur. Unless there is some provision in the Jamaica dividing act, to render it illegal that the same judge should enjoy seniority in more than one court, ere long these two barristers would succeed to the salaries of £700 each, as judges of the supreme court, and £1000 each, as the senior judges of the other two assize courts: this would afford them salaries of £1700 a-year currency. It appears unlikely that the British Parliament, with its usual liberality, would hesitate to vote an adequate remuneration to these gentlemen until vacancies should occur; and make up, besides, their salary to £2500 a-year currency, which would be no more than a proper salary for barristers of sufficient legal acquirements. I feel no doubt but that the House of Assembly, as it will be then, in all probability, constituted, will gladly pass a vote for their salaries, after the great improvement in the administration of justice, which would thereby be secured to the Island, shall have been experienced.

Leaving the question of juries to be alluded to separately, the formation of the courts of quarter-session is now to be considered. The custos of the parish, always the principal

resident, presides when present, and in his absence the senior magistrate. On him devolves the duty of charging the jury, and explaining to them the real state of the law on any point on which they may happen to be ignorant. He has no assessor or legal adviser, unless the clerk of the peace may happen to be a solicitor, who, in addition to the duties of this office, has also to perform those of clerk to the magistrates.

On the arrival of Lord Sligo in the Island, he found all the places of confinement full of persons under sentence of transportation, or imprisonment for life; of these the majority were for offences under the slave law, and condemned by sentences of quarter-session. Having a triple object in view, namely, to gain experience of the manner in which the laws were administered—to allow such as deserved mercy to obtain it—and lastly, to send to their final destination such as it was considered advisable to punish, by carrying into effect their sentences of transportation,—his Lordship called upon the chairmen of the different quarter-sessions to send him the notes of the evidence in each case. He was informed in reply, that the Custodes, or acting chairman, rarely, if ever, took any such notes, but that the clerks of the peace did, and that they would be ordered to transmit them to him without delay. Of many of the trials no memoranda could be found, and of those which were sent to him, the majority were scanty and deficient. Great distrust must be felt by all impartial persons acquainted with the Island, with regard to the decisions of the local magistrates, whether delivered collectively in quarter-session or individually, in any cases connected with the mutual relations of apprentice and master;—it is, therefore, much to be regretted, that a bill has passed the legislature during the last session, greatly enlarging the powers of the justices in quarter-session assembled, and considerably

narrowing the rights of the subject. Among other powers, that of transportation has been confided to them extensively—a power which ought not to be entrusted to persons like the present magistrates, men brought up in the atmosphere of slavery.

How just were the remarks of Lord Goderich in 1832, when discussing measures preparatory to the abolition of slavery! It appears that he did not think the Assembly should be entrusted with such extensive powers of legislation, and expressed himself to the following effect:—"He thought that the local legislatures were not so situated with regard to their interests and prejudices, as to fit them to deliberate on this great and important question. He could not admit that their proximity of observation was an infallible or even a safe guide to sound conclusions on the subject. He did not find in them a freedom from local and personal prejudices, an absence from all personal interests, such as could warp their judgments; nor did he see in them a mind open to the admission of truth from whatsoever quarter it might come." The conduct of the Legislature of Jamaica since 1834, proves this to have been quite a prophetic truth, as it has not passed a single measure for the amelioration of the state of the negroes which has not been forced upon it. How little are they qualified to undertake the executive part of so formidable a law as the one in question! This law I consider to be peculiarly injurious at this crisis. Even had the negroes become suddenly civilized by instruction, and gained enlarged views, the policy of such a course would be very questionable; but while they are still but partially enlightened, while they cannot be supposed to have forgotten the vices of slavery; or the sufferings they had undergone during its existence, and while the out-purchased master, the unwillingly and discontented out-purchased master, still re-

tains his old habits of precipitation and authority,—the possession of such a power is a fearful thing. The special magistracy was appointed with a view to this particular point: even with all the safeguards and privileges of exclusive authority which have been conferred on this body, it has been found to be too feeble to effect the purposes for which it was instituted. When this is the case, how can any one of a series of measures, contrived for the sole purpose of taking from them, without observation, much of their authority, and of getting rid of the most troublesome part of the Abolition Law, be sanctioned by Her Majesty's Ministers? A similar attempt was successfully made in the police law, but it expired at the end of the year 1836,—and it is to be hoped, that orders may have been sent out to the Governor to accept no bill with those provisoes. In that law, the adjudication, by summary process, of all apprentices for stealing produce, has been confided to the local magistracy, though formerly entrusted to the special justices alone, in accordance with the spirit of the Abolition Law. To prevent the special magistrates being called upon to adjudicate under this law, these offences are made punishable before two magistrates only: and it is almost impossible that two should sit together, in consequence of their being located in separate districts, except nuder peculiar circumstances. It will no doubt be urged, that this law is not made for apprentices alone, but that it equally affects all classes, white, black, or coloured; this appears at first sight to be equitable: but it must be remembered that the free people of Jamaica are rarely in a condition to commit those offences, and that during slavery they were not discovered, or, if found out, rarely noticed by the proprietors. Whatever may be said in other countries of the equity of passing laws which equally affect all classes, here it is not applicable; however impartially

such laws may appear to work in the letter, the spirit in which they are administered in Jamaica gives them a totally different character:—the truth is, that there are no sympathies between the two classes—the magistrates, and those on whose conduct they have to adjudicate; and that, without imputing any corrupt motives to the one, the result is most unfavourable to the other. "Qui substitue," says the author of *The Elements of Political Law*, "des juges forcés aux organes ordinaires de la loi, annonce le dessein de satisfaire ses vengeances, et la seule différence qu'on puisse apperçevoir entre les commissionaires qu'on nomme, et des assassins, c'est que les premiers se chargent d'infliger la mort, en la faisant précéder de la cérémonie d'une sentence, quand les derniers la donnent eux-mêmes et sur le champ."

This sort of jurisprudence the House of Assembly is trying quietly to introduce,—and it is, in fact, nothing more than adopting the worst feature of slavery under cover of a ceremony possessing all the exteriors of a trial, but none of its real advantages.

When I assert as above, that the laws are not impartially administered as between master and apprentice, it would appear that I mean to involve the whole magistracy of Jamaica in one sweeping accusation of corruption,—such is indeed very far from my intention, nor is it in truth my feeling. My opinion is, that long-established habits, and the want of sympathy between the two classes, have given such a bias to their minds, that, with the most honourable and conscientious intentions, it never comes into their thoughts that these laws, however worded, were ever intended to meet the cases of free or white offenders. That this is not my opinion only, but that it is the real truth, is sufficiently proved by the answers given before last year's committee by Captain Oldrey, No. 4208,—by Mr. Miller,

No. 3846,—and the three following answers, by Mr. Beaumont, No. 4299, and by Mr. Oldham, 4621 and 4629.

In the act to establish regulations for the government of gaols and houses of correction, an especial clause was inserted to prevent the apprentice being exempted from the operation of any part of that law which equally affected all free people. No objection was taken to this clause when the bill was enacted, as nothing could be fairer on principle, or more beneficial in practice, if impartially administered. But how has it worked? Whether from no white or free people having committed any offence since it was passed, or from this generally received opinion, of which I especially complain, that it could not have been intended for them—not one person of that class has been placed on the treadmill, or in the penal gang, with the exception of policemen under sentence of a court-martial, or those sent there by the judge of assize. None have been committed by the local magistracy. This being the effect, it is a matter of utter indifference whether the cause be corruption, ignorance, or prejudice; the effect ought not to be permitted to exist; and it is for this very reason that it becomes so desirable that no additional power should be given to the magistrates, either individually or in a court of quarter-session assembled, until that body shall have been found to consist of persons brought up under a different system. Before these observations are printed, it will be seen how the Colonial Office has acted with regard to the Larceny Consolidation Act, to which allusion has been made above. If that bill be not disallowed by Her Majesty, the result will be most injurious to the interests of the black and coloured population.

Of the conduct of the local magistrates, in cases of valuation of the apprenticeship term of service, more will be said hereafter.

GRAND AND PETIT JURIES.

THE same prejudice, and want of sympathy between the two classes, which have before been cited as among the principal causes of the mal-administration of the law by the magistracy, have also a most injurious effect on the decisions of the grand and petit juries. Without accusing the gentry, who generally form those bodies, of any intentional opposition to the law, there is no doubt that if any individual, professing opinions not in unison with their own, goes into a court of justice for relief, the chances against his success would greatly preponderate. In this belief, there are few of the gentlemen of the island who do not participate; but there is not one who would not anticipate with certainty a verdict, even in a doubtful case, in favour of those whose political sentiments coincided with their own. That this opinion is not adopted on light grounds—at all events, that it is not singular—will be seen by reference to the evidence of Mr. Jeremie, who, though he has never personally visited Jamaica, is, notwithstanding, well acquainted with the colonies in the Caribbean Sea; in his answer 199, and in those from 203 to 213, he made a precisely similar statement. Dr. Madden at once broadly affirms this, and in his reply 456, states that he has specified, in the course of his evidence, six cases in proof of his assertion, that no justice can be expected from a Jamaica jury, in any case between a white and a black man.

Mr. Beaumont, in his evidence, No. 4299, puts the case exactly in the same point of view, though not in the precise words. He states there, that, excepting in cases where slavery is concerned, justice may be obtained from these juries. This cannot be denied; but in cases where the

apprenticeship is concerned, prejudice so blinds the juries, that their verdicts are very uncertain. Many instances might be quoted to show that some strong feeling must operate to produce decisions so contrary to what might have been expected. It is to be remembered that the duty of the grand jurors is wholly initiative; they are not to hear any evidence in defence: their duty consists in merely seeing if there be any adequate cause for bringing a prisoner to trial; they are by no means themselves to try his guilt. The informations, which are sworn before the magistrates for committal, though often inadequate to support the charge preferred, generally offer proofs, quite sufficient to require a farther investigation, and if there is a doubt in the minds of the grand jurors, it is their duty to let the case go through the ordeal of a re-examination by a petit jury.

For instances of the extraordinary effect of this prejudice on their minds, see the case of the bills against Mr. Mason, for the manslaughter of Tabitha Hewett, 2869, et seq., and those against Mr. Parsons, overseer of Mr. Richard Barrett, for a similar offence, in the case of another female; the circumstances of whose deaths ought to have undergone the most rigid examination; also those against Mr. Liddel, the overseer of Mr. T. J. Bernard, as well on his own private residence as on the estates of Dawkins, for the manslaughter of Juliana Ayton. In this case it was proved, before the magistrates, that she had been knocked down by the man, and kicked repeatedly, and that she never left her bed from that time until her death, which occurred soon after. So strong was the impression on the medical men of Mr. Liddel's criminality, that one of them, Dr. Stamp, very properly came into Spanish Town to report to the magistrates that she could not be expected to live through the day,—his object being to have Liddel, then out on bail, taken into custody. The

bills against another Liddel, the supervisor of St. Andrew's workhouse, for flogging females in that establishment, bear out this case; also those against Whiteman* and Nelson, two inferior servants of the same workhouse, for the same offence; against Aitcheson, Young, and Coffey, of Kingston workhouse, for flogging Eliza Carr, page 523; and lastly, those against the supervisor of the workhouse of St. John's, on informations taken by Mr. E. D. Baynes, a special justice, for illegally shaving the head of a female, sent in under suspicion—for having starved the prisoners, by not giving them half the legal quantity of food while in confinement—and finally, for having flogged, without any legal authority, a poor apprentice, on his lacerated leg, with the view of making his punishment more painful.†

In the case of Mason, the bills of indictment were thrown out, as was said, because they were drawn up in the technical manner, namely, that "Mason did *with swords and staves* kill and slay the said Tabitha Hewett:" see No. 2940: while it was alleged that her death was owing to want of care and legal medical assistance. The coroner was sent for by the special justice, and ordered to hold an inquest; but this gentleman (Christopher Luce Ramson) refused to hold one. Such a decision was a gross breach of his duty. In the case of Liddel, the overseer of Mr. Bernard, the grand jury threw out the bills for the

* For the evidence in this case, vide Appendix (C.)

† The whole of the proceedings in the case of Mr. Baynes and the Supervisor of the workhouse of the parish of St. John's, have been printed by order of the House of Lords, in Paper 250 of 1837. As it contains most interesting information on the manner in which apprentices are sometimes treated in these establishments, it was at first intended to have been reprinted in the Appendix. Some doubt, however, of the extent of parliamentary privilege having recently arisen, this intention has been abandoned. The Parliamentary Paper itself may be purchased at the office of the printer of the House of Lords.

capital offence, and subsequently, when other bills were preferred, found them for an assault, on the same evidence —thus clearly proving, that they were satisfied that the assault which preceded her death had been committed, but that they would not send the man to trial for it. So little was he injured by his conduct towards this woman, that he still remains in the service of the same master, Mr. Bernard, or, at least, he did so subsequently to the trial. In the case of Parsons, it was sworn that the daughter of the dying woman sate at the door of the hospital, asking permission to go in and attend her mother, and that it was refused her; and when the special magistrate, who discovered her wretched situation, found her, she was lying on a heap of excrement, which had accumulated since the commencement of her illness. In the case of Liddel and the others of St. Andrew's workhouse, though the bills against them were thrown out, it is remarkable that they were found against another man, named Phillips, a subordinate officer, also in that workhouse, who, it appeared, had administered punishment to a female, because she had refused to submit to his impure proposals. The cruelties were, in other respects, sworn to quite as strongly against the rest, but not with similar results,— thereby shewing that it was the *cause* for which the flogging was given to that female, which occasioned the bills being found; and that the simple fact of flogging her was not an offence for which so severe a punishment, as putting a white man on his trial, was to be administered. Another feature in the case was, that though the existence of the flogging was proved in Phillips's case, and positively sworn to in those of the others, the custos of the parish, Mr. Mais, instead of reprobating the conduct of the supervisor, proposed in the vestry, and successfully, that the parish

should pay the costs to which Mr. Liddel had been put in defending himself. Connected with the case of Eliza Carr was that of three other females, Aglae, Janet Williams, and Sarah Young. Informations for flogging them in Kingston workhouse were sworn, and bills prepared; but when that excellent and humane solicitor, Mr. Wemyss Anderson, found that the bills were ignored in the case of Eliza Carr, he thought it useless to send in those against the same people, for the illegal punishments of the three other women, on the same evidence. When the bills against Phillips were found, Lord Sligo reported to the Secretary of State for the Colonies the evidence on which the bills against the others were thrown out, and was directed, in consequence, to send a message to the Assembly, requesting that the illegality of such an offence might be made more clear by a specific enactment. (See Answer 5549 and 5457.) The only notice taken, either of that or of the former message sent to that body respecting the flogging of females, was a remark, that, it being already illegal, it was of no use to pass any other enactment on the subject. This is most true in the abstract; but in what state were the liberties of these females, when the grand juries would not do their duty?

In the case of the indictment of the magistrates and supervisor of the workhouse of St. John's, it was proved that the grand jury of Middlesex threw out the bills without examining all the witnesses who were tendered to them for the prosecution; they might have been justified in finding the bills on the evidence of *one* witness; but surely they ought by no means to have ignored them without a close examination of *every* witness who could possibly have proved the facts alleged. It is somewhat singular, that money to any amount would have been wagered, on

the day of the opening of the Supreme Court, that these bills would not be found; but there was so little difference of opinion on that point, that not a single bet was actually taken up. What a contrast to these cases is furnished by the late action for false imprisonment, brought by some inhabitants of St. John's parish at the same time, against the same Mr. Baynes, for committing a vagabond to the house of correction. This was intended, it is to be presumed, as a set off against him for having taken informations against the magistrates and supervisor of that workhouse. It appears that a subscription was entered into to carry on this suit. Now, it will naturally be said, that probably there were sufficient grounds for this proceeding; that Mr. Baynes was not infallible, and that he might have acted illegally. What, however, was the result? The action was dismissed at once by the judges, without even the intervention of a barrister, on a brief statement from Mr. Baynes himself.

Thus much respecting grand juries: it now becomes necessary to allude to the petit juries: and on that point there is little to be said, because their duties are quite of a different character; and, in the evidence produced at a trial, there may be many shades which would fully justify their decision. Unless a trial takes place, it is impossible to come to a safe conclusion as to the justice of the opinions of twelve men on their oaths. The only instances which can here be alluded to, are those of Mason *v.* Oldrey, and Maclean *v.* Bourne, where the evidence has been printed at full length, very accurately, and where the decisions will certainly appear curious to those who read them. In the examinations before the Committee, more than one person has sworn that justice is not to be obtained of a Jamaica jury, in cases appertaining to slavery and appren-

ticeship; but, on the other hand, Mr. Burge, who was so long attorney-general, and is now the Jamaica Island Agent, has distinctly sworn to the reverse, in his answers 2714 and 3406. Each person must therefore form his own opinion, on a review of the evidence before him.

That the evil exists in the Constitution of both grand and petit juries, is admitted by most people in the Island unconnected with apprentice property. It is one for which no adequate remedy can be devised; a change in public opinion alone can effect it. In fairness, however, it should be said, that hardly an individual of those who have apparently decided so illegally in these cases, had the remotest idea that he was acting in any other than the most conscientious and honourable manner. So completely were their feelings warped by the usual tenor of their conversation with their associates, that their powers of discrimination were considerably diminished, and a false idea of their duties in their respective positions entertained. That these clouds will pass away ere long I am quite convinced: but at present, owing to the short time which has elapsed since the new system has come into operation, things have not found their true level, and, in consequence, there is much difficulty in carrying the law into full effect.

GAOLS, WORKHOUSES, AND FLOGGING OF WOMEN THEREIN.

THE Supervisors of the Houses of Correction are another class of offenders of the same description: I have designated them as the subordinates of the magistracy, and they are most culpable in the manner in which they fulfil their duties. It is a curious fact, though perhaps accidental, that the nineteenth clause of the act regulating gaols and workhouses, gives a summary power of punishing or removing a *gaoler*, who shall have been convicted of any adequate improper conduct; but does not extend it to *keepers* of workhouses. Now, in the former—the gaol—no prisoners are ever confined except by the sentence of a superior court; while to the other—the workhouse—all apprentices, or persons suspected of being so, are sent either for detention or punishment. Thus, it appears, that in the latter case, where alone there is reference to slaves or apprenticeship, no provision is made to punish cruelty and oppression, except through the intervention of the course of law—a long, tedious, and expensive process, which no man is anxious to engage in. An overseer, a book-keeper, a policeman, an estate constable, or even any idler riding out for amusement, sees a black man walking along the road with a bundle, or, what is most frequent, a basket of provisions on his head;—he stops him, questions him—and if the man does not give an explanation *satisfactory* to the inquirer,—if the negro does not succeed in giving *what he considers* to be sufficient explanation,—he takes him up, for which he is entitled to a certain premium, and brings him generally before the nearest *local* magistrate for examination; and in order to get the reward to which he is entitled

for apprehending a runaway, urges the man's committal to the workhouse. The man, generally, has not the means at hand of proving to the magistrate who and what he is; and that officer, naturally not wishing to let a runaway escape, commits him on suspicion. As soon as he reaches the workhouse, he is at once chained to some other fellow-prisoner by a collar round his neck, and he is sent out, in the penal or chain gang, to clean the streets of the town, or do any other work, in which the parish penal gang happens to be employed. He is then, as the law directs, advertised for four successive weeks in the Colonial papers, for the purpose of being claimed; and, during all that time, works for the benefit of the parish, and perhaps at the end turns out to be a free person. In that case, he has undergone an unjust and severe punishment.

Perhaps, however, he is really an apprentice, and having given a false name, is not recognized; or if he shall have correctly designated himself, his master has not by accident seen the papers in which he is advertised: what then becomes of the man? It will probably be at once said,—"Oh! he is of course released, when the time for the legally required number of advertisements has elapsed." In some cases this happens, where the Custodes or magistrates are anxious to do their duty; but more frequently he is detained, at hard labour, in this place of confinement, till some one accidentally interferes.

Among many instances of such abuse there was one which caused some conversation. A female (whether an apprentice, or not, has never been to this moment proved) was confined for nine months in the Port Royal workhouse, on suspicion of being a runaway. When questioned, she admitted herself to have belonged to a man at Montego Bay. He had been repeatedly written to by the supervisor of the workhouse, to inform him that she was there in

confinement; he, however never took any notice of these letters, and she still remained a prisoner. These circumstances having been accidentally made known to the Governor, he ordered her immediate release; but she had been for nine months in confinement, and had worked in the penal gang in chains in the streets. Without any trial, conviction, or sentence, she had been kept all that time at hard penal labour for the benefit of the parish, and had no possible means of subsequently obtaining redress. Some instances are known to have occurred of a master leaving an apprentice in such a place, even at his own loss, through spite; he being in no other way able to get so heavy a punishment inflicted. An instance is well known of an individual, who, though he bears the highest character for humanity and benevolence, left, in such a position, one of his female apprentices of whom he thought ill, in order to get rid of her; she not being willing to leave his estate; and yet there is not a man, of the most violent anti-slavery feelings, who would not say that a more humane person does not exist in the whole Island. Young girls, of premature age, and probably of excellent character, sent in on suspicion, or for some trifling indolence, or for turning out late to work, are seen working in chains in these penal gangs, cleaning the streets. Thus any germ of modesty they might possess is destroyed. One of these girls is probably chained to a thief, or woman of infamous character; if she has been heretofore pure in her conduct, the chances are strongly in favour of her being corrupted by the vices of her companions. Once seen amongst the criminals in the streets, disgrace attaches to her name, though she has really been guilty of no offence, except one of the most trifling nature, proceeding from the carelessness of youth; and yet, for this cause, she is made to associate with all the vilest criminals of the chain gang.

The strongest representations were made by the Governor to the different Custodes, informing them that he had been directed by the Secretary for the Colonies to call their attention to this circumstance, in the hope that they would except young females, of the above description, from this disgraceful punishment; but it has never been asserted, that, in a single instance, the practise was in consequence abandoned.

The custom of cutting off the hair of all female apprentices, has been lately adopted in these establishments, on the plea of health and cleanliness. During the time of slavery, when it was more the interest of the proprietor to take care of these people, than it is at present, it never was done; this, therefore, cannot be looked upon in any other light than as a contrivance to make up for the other annoyances, which, owing to the Abolition Law, it is no longer in their power to inflict on their apprentices. It is well known, that the hair of the negro is a close woolly oily substance, in no way resembling the hair of a white person. Cutting it off is a serious injury, as it deprives the brain of its natural protection under a tropical sun. The part to which the attention of the local magistracy, however, was more particularly turned, were the plaits which the women usually wear on the sides of their heads. The natural hard curliness of their hair makes it appear so unlike that of an European, that they take the greatest pains to form these plaits, which are generally about the size and thickness of a woman's little finger. They are exceedingly proud of them, and I have no doubt but that there is not one woman there who would not rather submit to personal chastisement, than lose them. Cutting them off cannot be intended for any purpose of cleanliness, and can therefore be attributed to no other motive than a wish to annoy these poor women. They are deprived of these plaits the very moment

they enter the workhouse, even though their confinement is to last only a week,—sometimes if sent in merely on suspicion, or detention for future examination. The different Custodes of the parishes where this took place, were in vain repeatedly addressed on this subject by the Governor; bills of indictment were even sent in against the supervisor of the workhouse, for having committed this act of gratuitous oppression, in opposition to a direct order of the special committing magistrate. Though this punishment is one quite unrecognized by law, and though the fact was undeniable and undenied, the Grand Jury quashed the trial for an assault, by throwing out the bills.

In many parishes, regulations of the most salutary nature were made by the magistrates,—sent to the Governor officially, as those by which the management of their establishments was to be guided,—and by him transmitted to the Colonial Office. They are to be seen in the Appendix to the Evidence, page 110; but few, if any of them, were attended to, excepting so far as suited the purposes of the officers of the place. It is to be remarked, that in many instances under those regulations, the power of whipping is given to the supervisor, exclusive of any magisterial order in each specific case. In one parish an order was made, which does not appear in those printed regulations, that every individual sent to the workhouse, no matter for what cause, should be indiscriminately compelled to work a certain time in each day on the treadmill. No allusion was made to their being convicts, or to the order of the special justice, or to the individual by whom the person was sentenced. The suspected runaway, and the convicted criminal, were subjected alike to the same discipline.—Yet this is the mode in which the law is administered by the local magistrates. An Englishman, who had never been in Jamaica, would naturally remark,

"Oh, this will remedy itself; such heavy actions would lie."—A poor negro take an action! the idea is absolute nonsense; he has neither money nor knowledge enough to effect his purpose—and, though ignorant in other matters, he may justly feel the inutility of seeking to obtain justice against a white man.

Though nothing can be more illegal than misconfiding to the gaoler, by the second clause of the act relating to the management of gaols—the 5th and 6th William IV,—a power which is taken from the local magistrates themselves by the Abolition Act, namely, that of punishing the apprentices; yet a still more arbitrary and unjust authority is given by it to one local magistrate, namely, to treat a repeated breach of these gaol regulations (laid down by themselves, and subject to no approval to render them legal) as a felony; and to inflict on the offender any punishment, by confinement or personal chastisement (clause 3rd), to which he would, if convicted of felony before a superior court, be liable. Of particular instances, where the treatment of the apprentices in the workhouse has been of a nature to warrant what I have said, numerous cases, quite beyond denial, might be quoted. Amongst others, the case of Jenkins, supervisor of Hanover House of Correction, who was tried for the murder of a man named Shrives, by repeated flogging. It was satisfactorily proved that the poor man had been flogged most cruelly, and that he had died soon after the punishment.

By one of those curious coincidences which sometimes occur to Jamaica juries, the supervisor was acquitted, but the acquittal was accompanied by a special verdict, "That he had been guilty of cruelty,* and shewn great want of feeling and humanity to the deceased." How they could reconcile that

* For the whole trial see Papers on Slavery, 3d part, No. 242, p. 305.

special remark with the acquittal of Jenkins, is not easily to be understood. The jury staid in for sixty hours, and it was notorious, see answer 5544, in "Buxton's Report and Evidence," that eleven of the jury were for an entire acquittal, while one alone declared the man's guilt. That individual loudly proclaimed, that he never would have yielded the point, or agreed to the acquittal, but for two causes; the first, that the measles had broken out suddenly in his family, with symptoms the most fatal; the second, that being a Jew, he had religious scruples as to eating the food of which the others partook, and he was therefore absolutely starved into the verdict.

Jenkins was subsequently tried under the same evidence for an aggravated assault, and the former verdict made the matter too clear to admit of any farther acquittal.

H. Sloly, the supervisor of the House of Correction of Trelawny, was also tried for flogging a woman on the treadmill, and, though convicted, was never called up for judgment, in consequence of an intimation, delivered in open court by the Chief Justice, that there was no intention on the part of the Crown to punish the man; and that the only object sought, was to ascertain the state of the law.

Phillips, the driver of St. Andrew's workhouse, was likewise tried and found guilty of flogging a woman, Jane Henry, because she would not submit to his desires; it was then proved that this species of debauchery and punishment of females was of frequent occurrence. Yet the supervisor, who ought to have known the fact,—*who must have known of it*,—was kept in his office, as before, and the Custos even persuaded the parish to pay the expenses of his defence. It might naturally have been supposed that the man would have been dismissed at once; and he would have been so, had not the custos and magistrates approved of his conduct.

In the cases of the tremendous cruelties which took place in the workhouse of the parish of St. John's, which were discovered by Mr. E. D. Baynes, the Special Justice, it was proved, that the prisoners were half starved by the supervisor; that he remained absent from the workhouse, contrary to the magistrates' regulations; that excessive cruelties took place in chaining sick people; but, above all, it was sworn that a poor apprentice was flogged on an open ulcerated sore, in order to make his sufferings the greater. The bills, in these cases, were thrown out by the Grand Jury, as has been before mentioned.

Some cases of great cruelty were proved to have taken place in the workhouse of St. Elizabeth's, but the death of the supervisor, immediately subsequent to their discovery, prevented any legal notice being taken of them: see 3168, "Buxton's Report and Evidence."

We now come to the worst feature of the workhouse system,—the most palpable and barefaced violation of the abolition law; namely, the flogging of females within the walls of those establishments. The extent to which this was carried, and the number of cases which were discovered, and reported, by the Governor, in messages to the House of Assembly, were perfectly astonishing. No notice was, however, taken of them by that body, except appointing a committee to inquire into the truth of the statements. No remedy was even suggested. There cannot be the slightest doubt but that this abuse prevailed in every workhouse in Jamaica. It was proved to have taken place at the House of Correction of Kingston, and in that of Spanish-town, continually, by orders of a local magistrate; in those, besides, of Manchester, St. George's, St. Dorothy's, and some others, the names of which are not within reach at this moment. In the Kingston case, the fullest informations were sent up to the Grand Jury

against the supervisor, Aitcheson, and his assistants, in the case of Eliza Carr, but they were ignored. The cases of Aglie Janet Williams, and Sarah Young, were prepared; but as they were supported by precisely similar evidence, that most humane and excellent man, Mr. Anderson, the solicitor, did not think it worth while to send them before the Grand Jury for examination. Mr. Dallas, the Custos of Port Royal, however, in a letter of his, page 524 of the Evidence, declares that Janet Williams did get ten lashes with the cat, and justifies that punishment; thereby proving that, at all events, the system did prevail there.

In Mr. Jeremie's examinations, Answer 359, he states that he presumes, from the nature of Lord Sligo's messages to the Assembly, that there is some law existing in the island, which actually makes legal the flogging of women. Such is not really the case; but when the Governor wrote to inquire why this oppression was committed in the Kingston House of Correction, the reply given to him was, that they considered themselves justified, by the clause in the Gaol Act,* in passing a rule that females should be flogged. This clause authorises the local magistrates to make regulations for the management of each House of Correction. The mayor of Kingston, on being informed that this was a misconception of the law, declared that the practice should be abandoned. It is, however, much to be regretted, that, subsequently, many instances of a renewal of the offence were brought forward, and great efforts made by the city authorities to prevent the special justice's interference in any such cases. Doubts, indeed, were expressed, as to his right of inspecting the prison at all. That these doubts are not justified by any law, it is, I presume, needless to say; but as this pretext has satisfied

* See Papers on Slavery, part 3, No. 242, p. 15.

the Grand Juries that it would be unjust to find a bill against those who may have been indicted for that offence, —it became most desirable to have a short and clear explanatory act of one sentence, passed merely to prevent future misconception. This was communicated to the House by the Governor, at the request of the Colonial Secretary; but the reply was, that there was no doubt but that the practice was illegal, and that, therefore, there was no occasion for any fresh enactment. If such was the case, there would have been no invasion of rights in passing a new law; and had they really been disposed to co-operate in supporting the abolition of the prison law, they would surely have passed this at once; but, by refusing to do so, they shewed their determination to take no steps to stop this evasion of the Abolition Law. As the House of Assembly has adopted such a course, and, in spite of the report of Mr. Buxton's Committee, has taken no farther steps, it is to be hoped that a short act will be passed in the British Parliament, declaring that no local laws or regulations can interfere with the Abolition Law; and that the flogging of a female, no matter in what place, or under what circumstances, is a high misdemeanour.

In illustration of the assertions contained in this chapter, and of the remarks, previously made, as to the manner in which the Grand Juries in this colony exercise their functions, it may not be inappropriate to add the notes in a case of criminal information, filed against Whiteman, one of the drivers of the House of Correction of St. Andrew's parish, in consequence of the impossibility of getting bills found. They will be seen in the Appendix (C).

After the perusal of these notes there cannot be any doubt as to the necessity of a change in the judicial system of the colony, as well as of a strict examination into the con-

dition of all those places of confinement, for the purpose of devising some means to prevent the recurrence of such abuses, not only during the continuance of the apprenticeship, but after the year 1840; when with all the prejudices felt against the blacks, more watchfulness, even than at present, will be requisite to protect their liberties.

So large a proportion of the black population passes through these receptacles, that the moral effect of the process becomes an object of the highest importance. This case, and that of Phillips, who was convicted of flogging a woman because she refused to prostitute herself to him, proves what a state this establishment is now in; and yet there appears an affidavit of Colonel Robertson, an old magistrate of the parish, and colonel of its militia, that he has been for a long time acquainted with this place of confinement, and that he never saw it better conducted than at this very time, when these two offences were committed within its walls.* The conclusion is obvious, that gentlemen in Jamaica have not the same ideas of prison discipline as are entertained in England, and that the sooner the gaol systems of the two countries are assimilated the better.

The observation of Judge Mais is also remarkable: he pronounces the proceeding to be infamous, and in the same breath declares that he has not seen the affidavits. How then could he know that it bore such a character? No man in the island enjoys a higher reputation in all respects than this gentlemen. He is Judge of the Surry Assize Court, Custos of the parish of St. Andrews, Major-

* Liddel, the supervisor, has since been dismissed for cruelty. What then becomes of the indignation of the Custos and the magistrates of the parish, at having been previously accused of neglecting to inspect this workhouse, and of their declarations of the excellent discipline and good order prevailing in it?

General of Militia, and President of the Jamaica Local Bank. When a man of his high character not only shews such preconceived opinions, but also persuades the parish to pay the expenses of the prosecution of the supervisor in charge of the workhouse where these enormities took place —after that prosecution was instituted by order of the Governor,—how can any person brought up in the same atmosphere be considered fit to be entrusted with judicial powers? It is impossible that such a person can bring into court with him that impartiality which ought to be the constant companion of every judge.

On the legality of chaining females in houses of correction, much doubt was thrown by Mr. O'Reilly, the Attorney-General, — that bold and humane officer, who has never hesitated a moment, no matter at what professional loss, to stand forward as the protector of the oppressed; but the Court, it seemed, shrunk from a decision which it was possible to avoid. Had the case proceeded to trial, there is little doubt but that the assault would have been proved; at least one of the witnesses sent before the grand jury, declared that he could testify to its having taken place; but it is very difficult to procure supporting affidavits. There is no power to subpœna a witness, except to attend at a trial; and the master generally dislikes, for various reasons, to allow any of his apprentices to absent themselves for such a purpose. So far is this feeling carried, that a gentleman of an adjoining parish, a magistrate, positively forbade a female apprentice belonging to an estate of which he was the attorney, to obey the summons of Mr. Baynes, the special justice, until reference was made to the Governor.

SPECIAL JUSTICES, AND THEIR PROTECTION.

One of the wisest provisions of the Abolition Act, was the taking all power over the apprentices from the local magistrates, and conferring it on individuals who were not possessed of an apprentice,—because the former persons must be naturally much prejudiced in their opinions respecting the relations of the black to the white population. On the exertions of these special magistrates depends the whole success of the apprenticeship system. Without their aid it would have been totally impracticable to administer the law in anything like its original and intended character. A very superficial examination, however, into the proceedings of that body, during the past three years in Jamaica, will show how inadequate it is to its duties, without some efficient protection and support, during the remaining term of the apprenticeship. There were certainly some few exceptions to the character generally deserved by the gentlemen who filled these offices; but when allusion is made to their being a feeble body, let me not be misunderstood. What was in the physical power of man to do, they did; and it is a matter of the greatest wonder that so much zeal, so much energy, and such an indefatigable spirit of humanity, as pervaded the vast majority of that body, should have been displayed by them. In such a climate as Jamaica, where the sun has so tremendous a power during two-thirds of the day, where the great masses of decaying vegetable matter, and the evaporation from the marshes, produce miasma of the most fatal description, these gentlemen, with a courage and perseverance unequalled by any on record, rode about the Island in all directions, defying the sun, and the rain, and

disease. The mortality amongst them was, in consequence, quite lamentable, but the slightest indifference, or unwillingness to continue their exertions, has never been in a single instance exhibited. To give an idea of what they underwent, it is only necessary to say, that in the twelve months, from the 1st of May, 1835, when the register commenced, till the last of April, 1836, they rode 170,469 miles, and visited 38,664 Estates; at 26,913 of which no complaints were made. During the two first years of the apprenticeship, more than twenty Special Justices fell victims to the climate and to their own exertions, and many more resigned, from finding that the emolument was not sufficient for their support; or sickened by the opposition they met with from the planters; or in consequence of their bodily strength being unequal to the severe labour imposed on them. In the returns of one magistrate, Mr. Theobald A. Dillon, 190 miles were reported to have been travelled in one week, and 120 not unfrequently in those of many other magistrates. It may probably have been imagined, that their pay was amply sufficient to remunerate them for discharging such severe and harassing duties. The very reverse is the fact: their salary at first was only £300 a-year, but was subsequently increased to £450. That sum, however, proved quite insufficient to meet their necessities. By those who possess a knowledge of expenses in Jamaica, from having resided any time in the Island, it would, without any hesitation, be fixed at a much higher sum—at not less than £700 a-year. Every necessary of life costs twice as much in Jamaica as in England —the distances, too, which the magistrates were compelled to ride in the week, added to the difficulty of procuring good fodder for their horses; and the great propensity of these animals, in that climate, to gall, obliges them to keep great numbers. Four horses and two mules were

generally found necessary. Many kept more, though, of course, some kept fewer; but if the district was at all extensive, no smaller number would suffice. It was reported by one magistrate, that he had ten horses, of which only one was fit for work, owing to the bad roads; which made his district so difficult to visit according to law. Magistrates also frequently lose their horses by accidents; from their eating poisonous herbs, of which there are many; or from precipices, or other mischances, when obliged, as they often are, to travel by night, on their return home from the execution of their duties. No horse, of the most moderate description, can be bought under £40 or £50 currency: and if for a heavy weight, under £60 or £70. The first thing that a Special Justice has to do on landing, is to establish an agent, and borrow from him money enough for his outfit of horses, saddlery, portmanteau, &c. He thus becomes embarrassed at the outset, and is obliged to pay a portion of his salary for the liquidation of his debt. If he has the misfortune, not uncommon, of losing one of his horses when on duty, he gets into difficulty still farther; and unless he has a private fortune, with which his expense as a Special Justice has nothing to do, he cannot long maintain his independence. The stipendiaries are compelled on this account, as well as in consequence of the scarcity of inns, to have recourse to the hospitality, so proverbial in Jamaica, of the planters; and then it is difficult for him to do his duty honestly in a house where he has been received with kindness.

Again, another great grievance of the Special Justices, is the manner in which their salaries are paid. The Commissary is their paymaster; and they are compelled to take the dollar at 4*s.* 4*d.* when it only passes for four shillings in the island, and generally costs the Government but 3*s.* 10½*d.* Thus, they lose 8½ per cent. of their already

miserably insufficient salaries. The premium on bills would afford an handsome increased income to these gentlemen, if they were enabled to draw with the Governor's indorsement, and thereby receive the marketable value of their salary. This is undoubtedly a serious grievance, as well to them as to the military, and to all who receive their pay through the commissary; and it calls loudly for redress. At one time they are paid in gold at such a rate, then again in dollars at another. It is well known that the magistrates, on one occasion of a quarterly payment, received £7 less than they usually did, on account of the rate of coin in which they were paid. In addition to these various hardships, the manner in which they are regarded by the planters is another very serious cause of annoyance. Unless a magistrate be a notorious partizan of the planter, nothing is too bad for him: whereas, for those who are what are called "Busha Magistrates," that is, under the influence of the overseers, nothing is too good. Two magistrates have been dismissed, both of them accused of an improper administration of the Abolition Law: for both of these a subscription was immediately and liberally entered into: to one a present of plate was made, and the other received the amount of the subscription in money. Had they not been dismissed, no such project would have been entertained. In the case of one of these gentlemen, who was dismissed only a short time since, there is some peculiarity; which, as it affects more especially the Grand Juries of Jamaica, may not be, perhaps, quite properly introduced here. It must, however, be mentioned. The offence was, the having sanctioned a punishment inflicted by an overseer, without any legal authority, (and therefore highly illegal) on an apprentice. The overseer did not deny the fact; the magistrate acknowledged his share in the transaction,—and,

yet notwithstanding, the Grand Jury, in a presentment to the Judges, denounced the conduct of the British Government as a cruel persecution. The result was, that the dismissed magistrate received, as a compensation, a sum of money, which was raised by a subscription amongst the planters of the district previously in his charge. The persecutions, on the other hand, with which the planters visited those who shewed a leaning to the side of the negroes, prove the disposition which exists to take advantage, if possible, of any mistake which the Special Justices may happen to make, with the best and most humane intentions. The cases of Bourne and Oldrey are remarkable instances of the feeling which prevailed throughout every part of these transactions. How are they protected in the execution of their duty, when these attacks are made on them? The third clause of the Report of the House of Commons Committee, represents "the want of adequate protection to the Special Justices against vexatious prosecutions." It evidently was the impression of the Committee, that the reenactment of the Act in Aid, giving triple costs to the magistrates, would afford them sufficient support. Such is not the case, though that clause may in some degree produce caution in attacks on these officers. In point of fact, however, this enactment is, for reasons given in a former chapter, quite inefficacious in the present state of the Bench and Petty Juries, as a solitary measure for their defence. The Special Justices, at that time about thirty in number, were described as "the Thirty Tyrants," in a letter which appeared in a public print, and was universally attributed to a very talented and leading character in the Island, one of the party the most opposed to British influence. It was moreover stated in that letter, that the British Parliament had used its omnipotence to plunder and destroy the colony.

As a farther example of the annoyance to which these gentlemen are subjected, owing to the detestation in which they are held, it is necessary to state, that the House of Assembly, in more than one instance, summoned up from all parts of the country to Spanish Town, to attend a Committee of that House, those Magistrates whose character, conduct, and mode of administering the Abolition Law was the most opposed to their views. That this was done only for purposes of annoyance, is proved by the Committee having repeatedly been urged to examine them, and allow them to return to their duties; and from their having as constantly refused to consent. Dr. Madden was one of those so treated—see Answer No. 838, Buxton's Report; and so was Captain Oldrey: while Mr. White, to whom were attributed different views, was immediately examined, and allowed to go away at once. A similar annoyance was repeated subsequently in various instances, but in none more remarkably than in that of Captain Edward Baynes, who was kept for three weeks, in short, till the session closed, in Spanish Town, on the summons of a Committee which never met. As a farther proof of the animus with which it was done, I will merely state, that this event took place just after the bills for cruelty and oppression against the supervisor and magistrates of St. John's had been sent up by Mr. Baynes, and ignored by the grand jury. The natural inference must be, that it was done for purposes of annoyance. To crown the whole, not one shilling of the heavy expenses to which they were subjected by their journeys, or their detention in Spanish Town, was paid to any one of them. This became at last so serious a mode of persecution, that the Governor represented the matter to the Secretary of State for the Colonies, and was directed in reply to make application to the Assembly for the repayment of these expenses. That

body took no notice of the message; and the Governor not making any farther representation to them, the matter now rests precisely as it did before. Any Special Justice may now be summoned up to Spanish Town, and if prevented, as might be the case by pecuniary considerations, from attending, he is liable to committal during the remainder of the session for contempt of the House. Still, however, vexatious prosecutions are the evils to which a remedy ought particularly to be applied, and a most effectual one can in a moment be named: one, in fact, which is infallible. Let the Governor's instruction not to allow an appeal in error to be entered where a less sum than three hundred pounds sterling is engaged, be withdrawn, and let him be instructed to admit the appeal of a Special Justice for any amount. The principle of a right can as well be tried where £5 as where £500 are concerned. But something more is requisite, before it reaches this point; the poor Special Magistrate, already embarrassed from the inadequacy of his salary, cannot make the necessary advances to the solicitor, and therefore his defence is neglected. In order to remedy this evil, let the Governor be also directed, the moment that any suit is instituted against a Special Justice, to desire the Attorney-General to employ a solicitor, and to defend him at the public cost; unless the conduct of the Special Justice is such as to make the Governor feel himself authorised to refuse it. Should he see reason to refuse, let him, by the first packet, report the whole of his reasons to the Colonial Office. But the Special Magistrate should be borne harmless, as long as he is in the right. An order once given, it will be found that until the termination of the apprenticeship there will not be one vexatious prosecution commenced. An increase of the salary of the Special Justices should also be granted;

and if not a direct addition, at all events, an allowance for medical attendance, which is enormously expensive in Jamaica—£5. 6*s*. 8*d*. being the fee for one night's attendance. It is said that a magistrate thinks himself very fortunate, if he gets off for £50, when once taken ill. An allowance also for the purchase of horses, where they are disabled on duty, should be paid to the Special Justice by the Governor; and then they could meet their necessary expenses better than they do now. To pass six years in a tropical climate; to run serious risks of life every day during that period; and to end with being heavily in debt, in spite of the most prudent habits, is not encouraging to such exertion as is required for this most arduous office.

In addition to the cases of the vexatious prosecutions of Bourne and Oldrey, many other instances of as strong a character might be given. There was an attempt by a gentleman in the parish of St. James, at the commencement of the apprenticeship, to make the decision of a Special Justice against the interest of his brown mistress, a matter of a personal nature. The Governor having been informed of it, saw at once that the effect of the Special Justices making themselves targets for the young men of the colony to fire at, would be to nullify their exertions, and completely defeat the intentions of the Abolition Law. He therefore issued a notification to them, that he would at once deprive of his commission any stipendiary, who should so far forget his duty as to enter upon any personal altercation, or affair of honour, on subjects connected with his public duties. This put an effectual stop to any such attempts. Another more successful, and also more legitimate, mode of annoyance was then adopted, namely, that of pouring complaints, whether well founded or not, into the Governor's

office. As soon as any such were received, a copy was sent forthwith to the accused magistrate; and, at all events, he had the trouble of entering into a long defence, and sending to the Governor a copy of all the evidence taken on the subject, to which reference had been made. The law compelled them to visit every estate in their district twice in each month; and as they could only give up five days in each week to this object, the Saturday being devoted to holding courts, and the Sunday not being a day of labour, any occupation taking up a part of their time was a great additional annoyance. Now, though this reference was undoubtedly the proper and legitimate mode of attaining redress wherever real injury was done, it was to many the fruitful cause of much annoyance; from which, however, those magistrates were universally exempted, the general tendency of whose dispositions was known to be favourable to the views of the planters. That this persecution had no influence on their conduct in general, is to be hoped, and from the frequency of complaints made in the first year of the apprenticeship, it is to be believed; but on some, of timid and indolent characters, it must have had, perhaps, unconsciously, an effect. There were two or three of these magistrates who were so happy as to escape this annoyance without any sacrifice of principle;—one in particular, well known in the Island, who, in addition to great natural discretion and talent, which he exhibited on every occasion, had the rare good fortune of securing equally the confidence of the planters and of the apprentices:—but the majority, with as pure intentions, with as much zeal, and perhaps as much patience, had not the good luck to escape so easily. After this system had been continued for some time, the planters became tired of it, and attributing to the Governor a determination to support the Special

Justices whether in the right or not, began to consider whether they could not devise some other more successful means of annoyance, and of defeating the efforts of the special magistrates. Within the last two or three months, recourse has been had to a plan which will render it an absolute impossibility that any of them should venture to do their duty unless a proper remedy be speedily applied by the Governor. This plan originated in the parish of St. James, where more animosity to the new system has been found to exist than in almost any other parish in the Island.

Messrs. Finlayson, Facey, and Carnaby, the three zealous and intelligent magistrates of that parish, fined a man at Montego Bay for some act of oppression; and, on his refusing to pay the amount of his fine, they issued a warrant for his apprehension, and committed him to prison under the provisions of the Abolition Law. Mr. W. S. Grignon, a practising solicitor at that place, as well as an estate attorney, advised the man to take an action at quarter-sessions against these three magistrates. This appeal to the quarter-sessions, in preference to the Assizes, has recently become very popular, more especially since the Petty Offence Consolidation Act has come into force, and given to the local magistrates additional powers. The superintendance at the trial of the only legally educated judge in the island has no attraction for the planters. They think there is more "*knowledge of the negro character*" in the local magistrates, and the custos their chairman, than in the chief justice; and they therefore prefer leaving their cases to such a tribunal, rather than to that which, though still defective in its constitution, has the advantage of having a regularly educated barrister to preside over it. By the advice of the Attorney-General of the colony, these magistrates denied the jurisdiction of the court of quarter-session; but the custos, Mr. Manderson, overruled the objection.

The case was brought before a jury, formed, as most of them are, principally of estates' overseers and book-keepers, and a verdict against the defendants of course followed. The amount of the damages found, 7½*d.* and costs, shews evidently that this prosecution was got up to try the case, and incite other parishes to institute similar prosecutions, or, more properly speaking, persecutions, of the Special Justices, who, whether acquitted or not, are subjected thereby to an expense which their finances will not allow them to meet. The Governor declares that he has no authority to assist them in a pecuniary manner; and if they happen to be in straitened circumstances, as most of them are, in consequence of their wretchedly insufficient salaries, they have no means of making a proper legal defence.

This is part and parcel of the plan which has been so diligently, and so artfully, followed up for the past year, in direct opposition to the Abolition Law, of taking as much power as possible from the special, and vesting it in the local magistrates. This scheme was first commenced in Lord Sligo's time, when, after passing a bill to give the special commission to all the local magistrates, which he at once rejected, an address was presented to him from both branches of the legislature, praying his consent to such a measure, and representing to him that it was necessary for the safety and prosperity of the island. He again, of course, refused to accede to their wishes. They are now silently, but not unobserved, proceeding in the same manner; and if "this most cunning device" be not at once defeated by the acuteness of the Governor, the Special Justices must cease to struggle with the planters to carry into effect either the spirit or the letter of the provisions of the Abolition Law.

The only power, if this scheme be allowed to continue its progress, as it has hitherto done, which will be left to the Special Justices, will be that of scourging the backs of the negroes, and coercing them. In the execution of those duties they will be assisted by the local magistracy, but they will be deprived of all power to protect the apprentices against their oppressors. The local magistrates are, by degrees, getting all the most common offences of the negroes within their jurisdiction; for example, the Police Bill, and Petty Offence Consolidation Bill. Is any one bold enough to say, that, if an apprentice is charged under this latter Act, before those local justices, with insolence, or assault, they will calculate, when apportioning the punishment, the perhaps terrible provocation which he may have received? If a negro cut a cane, or suck an orange, to slake his thirst in that sultry climate; if he cut a stick even, in a country overrun with wood, for a great deal of which there is no claimant, he may, under the recent Act, be brought before a local magistrate. The *onus probandi*, where the stick, &c. was cut, laying on the negro, he may be taken before the local magistrates, whose delight, as the majority of them own in common conversation, it is "*to punish the damned black rascals*," and who may send him to the House of Correction for punishment; and when there, if he demur at all, he may be additionally flogged. Yet this law, which is open to so many objections, has been for some months before the Secretary of State for the Colonies, and at the date of the letters which came by the last packet from Jamaica, its disallowance had not been notified there. It was reported in the Island that, in communicating to the Governor the disallowance of another Bill passed by him during the last session, the Secretary of State had informed him, that the remainder of the Acts

then passed had not been decided on, as he had not had time to submit them to His Majesty for his consideration. This, perhaps, may be only an *on dit*, and not true; but surely a Secretary of State ought to find time enough to consider Colonial Acts of Parliament, and not "*await with perfect tranquillity*" the evil consequences which may arise, in the meantime, from their defects, for which he is certainly accountable.

The only other instance of persecution of the Special Justices which it will be necessary particularly to advert to, happened to fall to the lot of Mr. Baynes. From the time that he took an active part in trying to punish those gross and cruel violations of the law, which took place in the workhouse of the parish of St. John's, it was determined that all means of annoyance should be put into force against him. His wife had been recently confined. His persecutors commenced their operations with the wet-nurse, who was an apprentice. Though earning excellent wages in his service, much to the advantage of the probably absentee owner, who knew nothing of the affair, she was suddenly withdrawn from his house. He was in a similar manner deprived of the services of his other servants, who were all of the same class. Finally, he was, by a general concerted plan, refused a residence in the parish, and is now actually compelled in consequence to live at a much greater expense, at great inconvenience to himself, and with great injury to the negroes at Spanish Town, some miles away from his district. Since writing the above, the following paragraph has reached this country, in a Jamaica print, and it is inserted, as well to shew the manner in which the Special Justice who does his duty, as Mr. Bourne does, is treated, as the light in which the illegal flogging of apprentices is looked upon in the Island: whether the number of "licks" inflicted was five or six, or

many more, does not appear; the paragraph is extracted from the *Kingston Chronicle*, of the 26th May, 1837.

"A full bench of magistrates was formed yesterday at Halfway Tree Court House, to inquire into a series of absurd charges, which were made at the instance of Mr. Special Justice Bourne, against the drivers attached to the house of correction, because of the disobedient conduct of an apprentice named Alexander Sinclair, (who had been sentenced to be confined within the institution) and his refusal to perform the work assigned to him, they proceeded to use a slight degree of coercion to compel obedience, by inflicting (as was admitted) five or six paltry licks. We shall give further particulars in a future number, but we cannot defer remarking upon the impropriety of Mr. Bourne's incurring such unnecessary trouble. Had he adopted the right way of proceeding, the matter might have been settled in a few moments in a summary manner without occasioning a waste of time. But no, instead of this, he must indulge the *cacoethes scribendi*, by addressing a long rigmarole communication to the Governor, merely that it may cause a 'flare-up,' in the hope that he may be talked about in England as an enemy to oppression, and all that sort of humbug, and with the view of ingratiating himself into the favour of the Cantcraft Society. Oh, Stephen, Stephen! when wilt thou abandon thy evil ways and mischievous propensities?"

To exemplify what has been stated of the insufficiency of the Salaries of the Special Magistrates, a calculation of their annual expenditure, which has been recently sent home by a gentleman holding that commission in Jamaica, will be found in Appendix (D). To those who have been in that colony the charges will not appear unreasonable. The keep of their horses alone might probably be somewhat reduced. It may be said, too, that only a certain

number have been summoned to attend the House of Assembly, but compulsory attendance at assizes and sessions, for the furtherance of the administration of Justice, has been of such frequent occurrence as fully to warrant the charge of intentional annoyance.

VALUATIONS.

THE manner in which the Valuation of such negrces as wish to free themselves from the obligations of the remaining term of the apprenticeship service is effected, has been from the beginning a source of much uneasiness as well to the negro who desires to acquire his freedom as to all persons possessing humane feeling, and desiring that the negro shall enjoy all the benefits intended for him by the British Nation. Frequent representations have been made from various quarters, to the Home Government, on the subject, without, however, any satisfactory mode of overcoming the difficulty having been devised. The value of these services has increased enormously since the commencement of the apprenticeship, and if this were not the case, the valuations would bear even a worse character than they do at present. A very large gang of negroes was sold a short time before the 1st August 1834, at an average of £20 currency each, to an eminent physician in the colony, who had the sense to foresee the probabilities of tranquillity during the apprenticeship, and to know the advantage of accustoming these people to reside on his properties during that period. He bought other gangs, which it is not probable he got on such cheap terms as the one alluded to, but it is believed that they did not average £25 currency, per head:

whereas now the compensation for each negro in Jamaica averages £21 sterling, or something over £30 currency:—in fact, he bought every negro whom he had sufficient means to purchase; and the consequence is, that he not only realized the difference between these two sums, but also amassed so handsome a fortune, as to be enabled to retire from the practice of his profession, and, with much liberality, to make to his partner a present of the share of his business, which would have sold for a considerable sum in the market. Now, the average price of 1000 apprentices, who had themselves valued, and who purchased their manumission, after their masters had received the amount of their compensation during the two first years of the emancipation, was £34 odd shillings each, currency: the average valuation of 668 others, who thought themselves valued at too high a price, and would not therefore purchase their freedom, amounted to about £47 odd shillings. The average value of the negro, can thereby be very nearly ascertained; and it will be found, that at the end of the second year about £35 was the usual price for an able field negro. What injustice has therefore been done to those 668, who have given unanswerable proof of the over-estimate by continuing to serve as apprentices? Had the sums named for them, been anything near the former average, numbers of them would at once have produced the money; though, it cannot be denied, that some did get themselves valued without having the means of paying the sum awarded. The great difference which has been shown to exist between their value, prior and subsequent to the abolition, must afford the most convincing evidence of the well-working of the new system, and falsify all those memorials of the Assembly, or of individuals, which have declared the desperate state of the Colony since it commenced. That property

has risen also much in value is most certain. See Answer 4615, where it is testified that it has risen 25 per cent. Mr. Oldham, a most experienced planter, testifies to the same fact, 4841. A further proof is afforded, by the circumstance that Mr. R. Barrett, the Speaker to the House of Assembly, a man inferior to none in talent, or knowledge of Jamaica, has bought no less than four estates since the Compensation Money has been paid. To return, however, to the valuations:—it has been said above, that perhaps, their increased value occasions the excessive prices fixed on some of the apprentices. This, to a certain extent, may be the case; but it is to be feared, that it also betokens a desire to prevent these poor people from effecting their manumission. In some instances the local magistrate has been known to affix a higher value to the services of a negro than the representative of his owner swore to be his opinion of it. It is also to be remarked, that though, at the expiration of the Act, which regulated the deductions to be made for contingencies, at one-third of the gross value of the negro's services, a great number, indeed the majority, of the local justices, adhered to their former legal system of deduction; there were yet some who pointedly refused to do so, though the other local, and the special justice agreed to the value, and to the deduction. The magistrates thus dissenting generally propose a certain deduction, but one totally insufficient. The special, as well as some other local magistrates, could not conscientiously consent to such a principle; and the consequence was, that owing to the obstinacy, and I must say, the misconduct of these few magistrates, as many apprentices as were so unfortunate as to be placed under them as valuators, were deprived of their share of the benefits of the compulsory manumission clause, although they might have been prepared to pay the money to which their net valua-

tion would have amounted under the old law. The evil was obvious, but the remedy was more difficult than might be imagined. Had any corrupt motive been detected, in any one instance of over valuation, or any reason which would have satisfied the public as to the justice of such a stretch of power, the Governor might have at once dismissed such offender from the Commission of the Peace; but, when a magistrate justifies his conduct, by declaring that such was his *bona fide* opinion, whether right or wrong, no man could reconcile it to himself to adopt so peremptory a course. Mr. Jeremie, in his Answer 705, in the Committee Evidence, gives it as his opinion, that the formation of the Court of Valuation was most unfavourable to the acquirement of freedom by an apprentice. Answer 732 gives a practical example of the fact, namely, that the local magistrate valued an apprentice at £60, while the special justice valued him only at £25. As the individual so valued cannot now be produced, it may be difficult to ascertain which of the two parties was in the right. The only way of forming a correct judgment, is to recollect what was the average value of the majority, namely, £34— and then it may reasonably be inferred, that £60 was by far too great an amount to be fixed.

It is a great misfortune that the magistrates are not on oath, in each individual case, where they act as arbitrators, because the solemnity of such a ceremony would render them much more cautious, and induce them maturely to consider their verdict. It was said by a person, who gave his testimony before that Committee, and one whose evidence, from various circumstances, ought to carry great weight with it, (Mr. Burge, in his Answer 2672,) that in every one of these flagrant cases of over valuation, the special magistrate could apply to the Chief Justice, at the Supreme Court, for redress for the negro, and that such Court would

then appoint another magistrate, to replace the one whose perseverance in so improper a course was proved. A lawyer of that gentleman's experience and capacity, ought not to have forgotten, as he must have done when he gave that testimony, the consideration of who was to pay for the legal assistance, and the other costs of such an application; who was to pay the expenses of the journey of that special justice, and of the apprentice, backwards and forwards, from perhaps the most distant parish in the Island, to Spanish Town, and also those of their residence at that place, while waiting for the decision of the Court. Lastly, What would be said by the planters of the district, which he would be compelled, if he undertook such a duty, to abandon for at least five weeks, without the presence of any person having power to adjudicate between the apprentice and his master? The great delay which a reference to the Grand Court would occasion, if the difficulty arose just after one of its three annual Sessions had terminated, is another injustice to the negro in such a course. In recounting all these various causes for excessive valuation, it is with much regret that one other is to be added,—the very extraordinary, and, it cannot be otherwise designated, the infamous, evidence which has been given by some of the overseers and bookkeepers. One instance has recently occurred. An overseer swore that a common field negro was worth £40 a-year to the estate. In this case, however, the local and special justices remedied the evil, and showed their sense of the worth of the overseer's testimony, by fixing the negro's value at £14 a-year. But some magistrates think that they must be guided solely by the evidence produced before them, and not by their own personal knowledge. In the absence of any contradictory evidence, some have conscientiously considered themselves bound to fix a valuation at a much higher rate than they thought just. One instance of

the sort may be adduced, where, from the high character of the special justice, for talent and humanity, it is certain that he conscientiously felt that he could not give a different decision on account of the conviction of his own mind. Being a man of truth and of great moral courage, every one believed him, when he gave this feeling as his reason. It is astonishing that these overseers, who must so well know the market-price of a negro's services, should lay themselves open to the imputation of such dishonesty, without any possible advantage to themselves, except that of gaining favour with the attorney, who, if he did his duty, would instantly discharge them for such culpable conduct. After, however, stating all these cases, I am bound to say that they are exceptions; and that a great number of the valuations have been conducted on the most fair and equitable terms. Many abuses however have taken place, and their possibility ought to be removed by enactment.

HOSPITAL ABUSES.

WITH the exception, perhaps, of that which relates to the workhouses, there is no part of the abolition law which has been more abused and perverted, than that which regulates the hospitals, and the medical treatment of the apprentices of Jamaica. There are various points to which attention ought to be directed, for the purpose of enabling this matter to be viewed in a proper light. In the first place, the size and nature of the buildings is to be considered; next, the treatment of the patients who are sent into them; and, lastly, the abuses, both in the management and in the sanatory restraints which the law has placed in the hands

of the medical attendants. Of course, there is much variety in the size of the hospitals, and in the manner of conducting them. On some large estates, under good management, nothing can exceed the care which is taken of the negroes; but these cases are not very numerous. In many instances, the most cruel and improper conduct has been proved to have prevailed; these cases were well known at the time, but no memorandum of the names of the parties implicated having been kept, each individual case cannot be particularly specified. On those estates, where the hospitals have been recently erected, a much greater regard, both to decency and to the comforts of the patients, has been exhibited; a division of the sexes has been provided for in most, if not all of them; but those which have been for some time in use, and they are by far the majority, are sadly deficient in all these respects. Into these generally small buildings, males and females, lunatics, aged people, and those with contagious diseases, are all huddled together. There is generally no second room, or any other conveniency, such as health or even decency requires, for the diurnal necessities of its inmates. These poor creatures all sleep on a guard bed, which extends along one side of the room, without any bed-clothes whatever, though the land breeze is piercingly cold at night, and the blacks are peculiarly sensitive to its effects. To add to the misery of the place, the doors are generally kept locked,—always said to be so by the doctor's directions, in order to prevent its occupants from injuring their health by walking about. They are often kept thus locked up the whole of the twenty-four hours, with the exception of half an hour each morning and evening, when the doors are opened in order to allow the patients to receive from their friends their own provisions. There is much reason to fear that this species of confinement is frequently ordered, for the purpose of

annoying and persecuting the poor unfortunate apprentices. The stocks are had recourse to, in addition, for the same purpose; people with sore legs are often placed in them, in order, as alleged, to prevent them from walking; when it must strike every person, that inflammation is much more likely to ensue, if the diseased limb is placed between thick boards, than if the individual were allowed to walk about the hospital room at his own discretion. The stocks are now in some instances removed; but, for the most part, they still remain in the hospitals, though great pains were taken by the special magistrates to detect cases where they had been used, it having been considered that the new law made them illegal. Instances without end have been brought forward, where hospitals have been made use of, in evasion of the law, as additional places of confinement, after the apprentice had been kept a prisoner in the estate's dungeon, for the legal number of hours. A case of a gross abuse of this nature occurred on an estate of one of the most kind and humane masters in the island—a man who, had he been on the spot, would have been the first to punish the perpetrators. A long and careful examination of the matter before the special justices took place; and it was proved that a girl, who had been guilty of some offence, had been first committed to the dungeon for the legal twenty-four hours, and then removed to the hospital as a further place of confinement, in order to avoid thereby the penalties of the abolition law; that she was for the space of nearly, if not quite, a week, sent out to work every morning, and the moment the labour was over, she was brought back again, and locked up for the night in a cell in the hospital. It came out, further, that all the invalids in the place were compelled by the overseer to clean the works, and besides shell corn on each Sunday; that a girl was flogged by the estate's constable with a cartwhip,

in the presence of several of the white book-keepers, and that not one of them made the slightest effort to stop him. In short, a more disreputable state of things was never proved to have existed, than what came to light on this occasion. Some medical men have behaved so improperly, as to give general orders to have all patients in the hospitals indiscriminately locked up—a power conferred on them which never could have been contemplated; but, in most cases, the severest hardships which occurred in the hospitals, have arisen from the misconduct of the manager or overseer.

In the case of Parsons, the overseer on the estate of Mr. Richard Barrett, it was proved that the poor woman, whose death was the subject of examination, was found by the magistrate, who made the discovery, lying on a heap of filth, occasioned by her own illness, which had never been removed since she was placed in a perfectly helpless state in that bed; also, that her own daughter had sat for hours at the door, imploring in vain for permission to be locked in with her mother, in order to attend and clean her. The case of another female apprentice was somewhat different, though the abuse was almost as great. Her proprietor was stated, in the report of the special justices, who were ordered to investigate the case, to have totally neglected her throughout her illness, though she had served him faithfully up to the moment that she was taken ill. It appeared that he employed no medical attendant, but himself administered medicine to his apprentices, when he considered they required it. It appeared that he had no hospital, as this poor woman died in her own hut. Had the Coroner done his duty on this occasion, the truth must have come out. He was ordered to hold an inquest on the body of the woman; but being fully aware of what the result would be, he declared that it was unnecessary, and

did not hold it. He moreover threatened the poor woman's son with punishment, for complaining against his master for neglect of his mother.

To these may be added the cases of Pomelia and Sophy, (there may be some mistake as to their names, but the cases are well known) in St. Thomas in the Vale, where Martin, the overseer, was found guilty of the manslaughter of one of these persons in the hospital of the estate under his charge. Many more cases might be quoted, but the above are sufficient.

It has been stated, in evidence, by Dr. Madden, that the medical attendance on estates is insufficient. It is true, that the apprentices on some embarrassed estates, and those belonging to some small settlers, are absolutely without any. To prevent complaints, they get days of idleness, a very inadequate exchange, in lieu of clothes, medical attendance, and other usual allowances; but on large well managed estates, it does appear that they are better off than the majority of the lower classes in England or Ireland. There is always in the store of such estates plenty of medicines; there is too what is called the hothouse doctor, an intelligent negro, who has quite sufficient practical knowledge to administer the usual simple remedies in cases of the ordinary slight ailments of the negroes. He, moreover, knows quite well when it is necessary to send for the physician. The physician, if not sent for, generally calls once a week. If there is any sickness on the estate, he comes every day; or, if necessary, as many times as may be deemed requisite. In short, it does appear, that, as far as the attendance of medical persons is concerned, the apprentices on the large estates of Jamaica have scarcely anything to complain of. The physician is paid a certain annual sum for each negro, and it costs the estate no more if he be called in every day, than if he paid only his usual visits, while by his

attendance the sick person is the sooner able to return to his work; there is seldom, therefore, any hesitation as to making the physician do his duty, should he be indifferent to it himself.

The physician has, however, it must be confessed, rather a hard card to play; of some it can only be said, that either from a community of feeling with the most severe of the overseers, or from corrupt motives, they willingly make themselves instruments of their oppressions. There are, however, many who are totally free from such an imputation, and who preserve their integrity and character unsullied; but these, alas, run every risk of drawing on themselves their own ruin. They are all dependent on the caprices of the attorneys, who can, without giving any reason, remove them at a moment's notice from the attendance on an estate. There is an instance well known in the parish of St. James, where an eminent physician was dismissed from the medical charge of two estates, the only ones under the care of a very great attorney in that particular neighbourhood, because he gave to an apprentice on one of them, a certificate that he was incapable of working, owing to ill-health. When the attorneys commit such excesses, some allowance ought to be made for the physicians, who are so completely in their power, and may by one word be deprived by them of their means of livelihood.

The estate rarely furnishes food to the invalid in the hospital; but if it does, it is of the lowest possible description; generally cold boiled plantains, or some Guinea corn, or great corn meal. Delicacies, if ordered for the negroes, are provided; but it is a dangerous thing for a doctor to become too troublesome on an estate, and therefore they are not often prescribed.

Much of the ill-treatment in the hospital is excused by the overseers, on the ground that the negroes are in the

habit of "shamming sick," in order to evade work. This may have been true in some instances; but the negroes, seeing that the hospital can, under the already detailed circumstances, have but small attractions, without hesitation declare, that they would rather continue at their labour, however ill they may be, than go into the hospital. In fact, the assertion that their ailments are fictitious, is a very convenient way for an heartless overseer to get rid of the trouble of attending to a man's health, unless his illness be very severe. It may, probably, be with a view of keeping the hospital empty, that this system is organized; if so, it is certainly a successful plan. If it be necessary, as it may be, to prevent the patients from fatiguing themselves by wandering about, and getting improper food, let proper attendance, and all other conveniences, be provided for them, in that hospital; let decency and morality be consulted, by the division of the sexes; and, finally, let the severest penalties be inflicted on the overseer, if any person shall be placed in one of these establishments without a written authority from the physician. The object of this suggestion is to prevent the hospital being made a place of confinement, in evasion of the Abolition Law. Directions were issued by Lord Sligo to the special justices to visit and report upon all these estate-hospitals. In some cases—opposition was made to the examination; and though nothing could be more unpopular than this enquiry, it was in almost every instance successfully made.

The Governor declared that he would transmit to the Colonial Office the result of this investigation, in the hope of getting some modification of the sanatory restraint, enacted in England; as under this name have all these hospital abuses been carried on. Nothing, however, has been as yet done here to remedy the evil, and no person

expects any amelioration at the hands of the Assembly of Jamaica.

Copies of affidavits, bearing strongly on the subject of this chapter, having recently reached England, their substance is here introduced, but the names of the places and parties concerned are for obvious reasons omitted; they are, however, well known, even to the Governor of Jamaica, as it appears, by the conclusion of the female's affidavit, that she demands redress from him.

The complainant was a female apprentice named Ellen T——, belonging to —— estate, in the parish of ———, who swears, that on the 3d March 1837, feeling herself unwell, she applied to her overseer for admission into the plantation hospital according to law; that instead of being sent there, she was, on that day, committed to a dark cell, the common prison of the estate, and was not released from confinement till Sunday the 12th March; that, though complaining of illness, she got no medical assistance till Monday the 6th, when Dr. ——, the physician of the estate, visited it. That he came there two or three times while she was under punishment, but that, at each time he came, she was taken to the hospital to be inspected; she does not think that he was aware of her having been in the dungeon; that she received medicine and a severe blister on her arm while so confined; and that she suffered very much from the bad air and dampness of the cell; that the special justice visited the estate on the 7th, but that having been "*kept secret*" she had not been seen by him.

The above affidavit is confirmed in all the principal points by William H——, the estate's constable. Next come the doctor's orders, as inserted in the hospital order book, through which he conveys officially to the attorney and overseer his opinions, and directs the medical course, for the due execution of which the overseer is responsible.

"3d March 1837, Ellen T——. Lock up, as she is quite able to go to work, and refuses to do so.—Signed by the physician.

"6th March, Ellen T. Apply blister over her elbow, and, to prevent her walking about, lock her up.—Signed as before.

"13th March, Ellen T. Ten grains of blue pill, ten grains of ipecacuanha, twenty grains of calomel, ten grains of opium.—Signed as before.

"Released from the black-hole yesterday."

The affidavit of Dr. ——, the physician above alluded to, saith, that Ellen T—— complained to him on the 3d March of pain in her arm; "that seeing no sign of ailment, or disease, in the part, *or otherwise*," he ordered her to be kept in the hospital till his next visit, subject to the restraint of being locked up, allowing her every morning to procure nourishment for the day. That on the 6th March, finding her still complaining of the pain, he thought it proceeded from chronic rheumatism, and ordered her a blister on the part; he directed also, that the same restraint should be continued, in order to prevent her walking about and exposing herself to cold "*or such like.*" That he did not see her again till the 13th, when he found her arm discharging, and ordered her pills, to be taken once or twice a-day, till that discharge should cease; that after this she was dismissed from the hospital, and that he never ordered her into a dungeon, nor did he know she had been in one.

Now, in relation to this case, several observations may be made. However the affidavits and proofs may differ in trifles, in the main they prove the truth of the woman's story.

In the first place, the doctor at once, *suo jure*, without the intervention of a special justice, whose sentence alone could legalize this deprivation of liberty, places in confine-

ment a woman, whom, it appears, both by his order in the hospital book, and by his own affidavit, he thinks to be not at all unwell. This surely cannot be called a *sanatory restraint*, and is, therefore, a decided breach of the law. Next, as he himself swears, he at once decides that she had no rheumatism in her arm, because he saw no sign of ailment or disease on the part "or otherwise." It is doubtful whether rheumatism is invariably evinced by any outward sign. His opinion, however, appears to have been at that time, decidedly, that it could not exist without such outward sign. Was his opinion the same three days after, when he ordered a severe blister for her arm? It is to be hoped not, as, otherwise, that blister must have been devised as a legal mode of torture. It may be, that he really did feel that he had decided hastily in the first case. He next declares that he ordered her to be put under the restraint of confinement, allowing her time, every morning, to go out to provide her food. Hence, it appears, that it would do her no harm to go to her grounds to dig yams, though it would to walk about the place. This is hardly reconcileable. Next, it proves that the planters of Jamaica neglect that principle of the common law of England, that any man who uses his own house as a prison, must feed those he confines in it. There has been still one more breach of the law committed in this affair, and that is in the overseer not having reported the woman's imprisonment to the special justice on the 7th, when he visited the estate. The Abolition Law lays down distinctly, that all such imprisonments as shall take place under the urgency of any case, shall not last more than twenty-four hours, and shall be reported to the special justice the first time he shall visit the estate. Here the confinement took place on the 3rd; the special justice paid his usual visit on the 7th; nothing was related to him, and it does not appear

that any official report was presented to him, until the woman made her complaint. Does not this case alone, exclusive of all others cited, prove the necessity of severe and stringent regulations, as to the use of sanatory restraint, and the treatment of the apprentices in estates' hospitals?

NON-REGISTRATION OF SLAVES.

A RECENT decision of the Grand Court of Jamaica, on the effect of the non-registration of slaves, naturally turns the attention of those who possess an interest in that Colony, and indeed of every humane man, to the real position of the apprentices who were not registered as slaves, on the last occasion in 1832. The question was mooted soon after the Abolition Act came in force, when it appeared that the names of a great number of negroes, who had been previously registered, had been omitted to be inserted by their owners; some from their neglect, some from an intention to evade the Capitation Tax; a device not unfrequently resorted to, but punishable by a heavy fine, if the prosecution takes place within two years after the time of the general registration. The fact of this omission having been discovered by the friends of some negroes, more than one appeal was made to Lord Sligo on the subject, but he declined to give any opinion on a point involving such important interests, until he should have consulted the authorities at home. He, accordingly, requested specific instructions as to the rights of masters, so circumstanced, to the service of their former slaves as apprentices.

In due course an answer was received, and a circular to the special justices was issued, informing them, that the opinion of the law officers of the crown in England

was, that the omission of such registration absolved the negroes from all duties as apprentices; that they were to all intents and purposes free persons, and not subject to the provisions of the Abolition Act. They were instructed that if any alleged apprentice should be brought before them for the purposes of coercion, and if such person should plead non-registration as an exemption, they should call upon the master to show that the man was within their jurisdiction, which could only be done by proving that he had been duly registered.

About this time it was notified to the Governor, by the Secretary of State for the Colonies, that in consequence of the non-registration of the slaves resident in the Island of the Grand Caymanas, and of those belonging to the Maroons, their services as apprentices, could not be legally required by their owners. He was ordered further, to take steps to place them at once in a state of absolute freedom. There were, however, some peculiarities in each of these cases, which took them out of the range of the simple non-registration question. The interposition of Parliament ought, in consequence, to have been immediately called for by the government.

The Caymanas are a dependency of Jamaica. The principal Island is of coral formation, low and long, but narrow; with its highest point not more than twenty feet above the level of the sea. It is covered with bush, and there are some fine trees on it. Formerly, there were a considerable number of cocoa-nut trees, but latterly, a disease has attacked those on the western side, and is gradually spreading eastward; so that ere long they will be all destroyed. It appears to affect them as soon as they reach a certain height, and destroys the whole head of the tree; the leaves and fruit drop off, and the trees die. There are innumerable pools of water in all the interior parts of the

island, and consequently, the quantity, as well as the enormous size of the musquitoes, make them a greater annoyance there, than they are, perhaps, in any other part of the world. There is abundance of cattle on the Island, and as much cultivation as, with the addition of the wheaten flour, which is imported from America, will support its inhabitants. The population consists of about 1000 whites, (supposed to be principally descended from the old buccaneers, the Island being formerly one of their places of rendezvous) and 900 slaves. Their chief trade is in turtle; there being a vast number of small vessels belonging to them, which are wholly employed during the season in catching these animals on the small quays which abound all along the Spanish Main, and on the southern coast of Cuba.

The extraordinary flatness of its surface prevents its being seen at more than eleven or twelve miles distance; and it being in the direct track of all vessels going round Cape Corrientes, wrecks are very frequent. In fact, the produce of these accidents, may be looked upon as one of the principal sources of private revenue in the island. Its taxes amount to about £200 a-year currency. It affords a singular instance of a country existing without any government or any laws; for those which they call such, do not deserve the name. They have, indeed, two chambers, the construction of which is most curious. Their upper house consists of all the magistrates, who hold their commissions from the Governor of Jamaica; the lower is formed by deputies, sent from each of the villages; but their elections are carried on in a most uncertain manner. They profess to be guided by English law, but when that does not suit their convenience, they establish laws of their own. Some most curious instances of their litigation might be cited, but they would be foreign to the present question.

Their local code consists of some nineteen or twenty short acts. There is not a single deputed officer of the government resident on the Island, and only one of any sort receiving salary—the constable; but when a special justice was sent down to administer the Abolition Law, before the liberation of the apprentices, nothing could equal their docility and obedience. Their manner of receiving this, to them most fatal, communication, was remarkable. Lord Sligo himself went down for the purpose, in the Forte frigate, Commodore Pell, accompanied by the Serpent brig of war, with a company of the 84th regiment, under Captain Pack, on board. The Serpent was sent forward, with directions to inform Mr. Drayton, the custos, that the Governor was coming in the Forte on important public business, and that he requested to see the principal inhabitants on board the frigate, as soon as she should arrive. About thirty of the most influential accordingly waited on him, as directed, the moment the ship had come to an anchor. He then addressed them in the cabin. He informed them that the law was clear and precise, and that the government could not do otherwise than order the liberation of the apprentices. That he had in vain remonstrated on the unfairness of depriving them of the services of their former slaves, on account of their non-registration, without allowing them immediate and ample remuneration for the loss: that there was no reason for placing them in a worse position than other slaveholders: that Lord Aberdeen, then Secretary of State for the Colonies, had, in his dispatch on the subject, declared that it was in the power of Parliament alone to give such compensation; that from such an expression, he, Lord Sligo, inferred, at the same time, that application would be made to Parliament for such grant; but, he informed them, that he had no authority for so saying. He concluded, by assuring them

of his sympathy with them on this great misfortune. They received the whole communication with apparent consternation, but with the utmost good humour. Some questions were asked, apparently for information, and the only remark made was by one man, who, after rising from his seat, as he was leaving the cabin, said, "I came on board one of the most comfortable men in the island, and I leave the ship without knowing where to turn to get a bit of bread."

Sir Robert Peel's administration retired from office soon after, and Lord Sligo subsequently informed the inhabitants, that his appeal to Lord Glenelg on the subject of their remuneration, was met by an undisguised and immediate refusal to propose any such measure to Parliament. This is really a great hardship upon them, and one which calls loudly for the interference of the public. Had there been a possibility of effecting a proper registration in the island; had it been an integral part of Jamaica, which it is not; had the law of Jamaica, which prescribes registration, been in force in that island; had it been attached to any parish in Jamaica, so that the registration of their slaves *could have been legally effected;* much as their misfortune in losing the services of their apprentices would have been felt, at all events their own negligence would have made it equitable; but, as there is much doubt whether the Registration Law was ever in force in that island, great hesitation ought to be felt as to the equity or even the legality of the forfeiture without compensation. The law, however, of England, having declared that slavery shall no longer exist in Her Majesty's dominions, and that all unregistered apprentices shall be entitled to their immediate and unconditional freedom, those of the Caymanas were liberated at once.

The case of the Maroons was somewhat similar, though not exactly alike. It is unnecessary to give any particular

description of this curious race, as their position is so well-known. Suffice it to say, that they are blacks; descended from African blood; but they have been free from time immemorial. They are recognized to enjoy peculiar privileges in the island. They have always been most inimical to all other blacks; and have, in consequence, been employed continually as a police, to hunt for runaway slaves. They are a most efficient body for that purpose, and have been distinguished most favourably in consequence. All that can be said to their disadvantage is, that it is to be regretted that they are not more mild in their general conduct, when employed on this service. When, however, this is said, it is but fair to them to add, that this reproach has been found to apply in a much greater degree to the Free Island Militia, when called out on actual service against the slaves.

According to the regular rule, the superintendants made, previous to the abolition of slavery, regular returns to the House of Assembly at each annual session, of the number, age, and sex, of the slaves in the possession of the Maroons; these returns were always, under such authority, considered as the only registration requisite, and have always been printed among the official documents of the Assembly. Not a single instance was ever heard of a Maroon having been prosecuted for the non-registration of his slaves; and certainly they were misled as to registration being necessary. They, however, submitted to the manumission of all their apprentices without a murmur. Thus are these two great bodies of former slaveholders circumstanced; and, if anything were wanting to add to the general feeling in their favour, their ready and good-humoured compliance with an order severely affecting their interests ought to insure them the public sympathy.

Now come we to the case of the apprentices on the plan-

tations in Jamaica. For the owners of such as have not been registered according to law in 1832 no sort of excuse can be offered. The law was clear; the means were not only at hand, but previous habit had made them quite familiar to every one. Some instances, no doubt, of individual hardship might be quoted, where the neglect of the vestry clerk, or some really accidental occurrence, had occasioned the omission: but it is to be feared that in general it was justly attributable to a desire to evade the payment of the Capitation Tax. In any case, the liberation of the apprentice is indubitably legal. In the two former instances, compensation for the loss of that term of service ought to have been given; but in the latter, there cannot possibly be any claim for remuneration of any sort; and all that is to be regretted is, that the freedom of the apprentices so circumstanced has not been universally enforced. The enjoining the liberation of the apprentices of the Maroons, and of the proprietors of the Caymanas, makes the case stronger against the Jamaica defaulters.

Soon after the circular was dispatched, a claim to immediate freedom was made by forty-six negroes belonging to Mr. P. A. Scarlett, of Cambridge Estate, in St. James's, and their non-registration having been admitted at once by that gentleman, they became absolutely free. They, however, entered into a bargain with him, to work four days in each week for no other remuneration than their houses, gardens, clothes, and former allowances of food. This bargain was, at the time, considered too good to last. How could it be supposed that they would continue to work for Mr. Scarlett on such low terms, when so much more would have been earned by them in other quarters? Some persons may perhaps doubt the probability of a higher scale of wages being general; but in p. 163 of the Appendix to the Evidence, will be found a general Report,

which shows how much more was generally earned at task-work throughout the Island. Instances are given in the papers laid before Parliament, of eight shillings and fourpence a-day having been earned. (See *Question* 5863.) These people very soon found out that they had made an improvident bargain, and ere long some of them left his service, without saying a word, or giving any explanation of the cause of their determination, as all negroes, free or not, invariably do. Mr. Scarlett, as it was reported, then threw down the houses of two of the absentees,—a decidedly illegal act; as the law distinctly provides, that no proprietor shall have the right to deprive an apprentice of his house or land, till six months after his manumission shall have actually taken place. It was said that this act hastened the departure of the rest; perhaps it did: the fact being that every one of them left him almost immediately after.

Several other individual cases of liberation occurred, but no such large number was ever at once manumitted. There can be no doubt but that there are hundreds of negroes, now similarly entitled to their freedom, but they do not know whether they are registered or not. So many obstacles are thrown in their way, that it is as difficult as it is expensive for them to establish their freedom in courts of law. A report was, at the time, and indeed is now, current in the island, that the negroes on three estates, in the possession of a well-known individual, either as his own property, or as attorney for a relative then alive, are unregistered; but none of them have come forward to prove it, and there is, therefore, no method of ascertaining how many are now detained in illegal servitude. The employment of persons for the especial purpose of discovering such omissions, would be the only mode of effectually remedying this evil; but so much opposition would be expe-

rienced, that even then there would be great difficulty in carrying into full effect the humane intention of this part of the abolition law. While the liberation of Mr. Scarlett's apprentices was the subject of general conversation, and Lord Sligo much blamed for the part he had taken in the affair, a letter arrived from Mr. Burge, the island agent, addressed to the Commissioners of Correspondence, in which he communicated to them the decision of the Privy Council in the case of the unregistered apprentices at the Mauritius. From what he then said, it was considered that this decision proved the incorrectness of the opinion of the law officers of the Crown in England, with regard to the apprentices so circumstanced in Jamaica. Mr. Scarlett, or others for him, declared the intention of taking no less than sixteen actions against Lord Sligo personally, as soon as he should have resigned the government, to recover the value of the services of those negroes. No such attempt was, however, made; and it was very soon discovered that the cases were not parallel. Besides other differences, it was found out that the law of the Mauritius made it necessary that the Governor should issue an order for a registration before one could be held. No such order had been issued, and therefore the apprentices at that island still continue in the performance of their duties. No such law existed, either in Jamaica or the Caymanas. How comes it then that those of the Caymanas were liberated, when the fault was equally unattributable to their owners? or if liberated, why was not compensation tendered them for the loss of their services?

By a packet which arrived from Jamaica some short time since, there came home, in the public prints, an account of a trial, before Special Justices Hill and Higgins, on this very point, respecting an apprentice in the service of Mr. Thos. Jas. Bernard. The decision in this case was,

that the *onus probandi* rested on the negro claiming his freedom, and that as he could not, in this instance, show his non-registration, the inference must be, that he was a duly registered apprentice. Now the high character of these two magistrates, both of them men of good education, and of the strictest integrity,—one, too, possessing powers of mind, firmness of purpose, and talents hardly to be surpassed; who had before sacrificed a most valuable appointment, because he could not reconcile his own opinions to Lord Sligo's ideas on the Abolition Act,—must prevent any one from attributing their decision to party motives; it, therefore, must have great weight. Without, however, meaning to insinuate any thing in the slightest degree derogatory to the correctness of their sentence, or the purity of their motives, it is much to be lamented that such was their view of the case. The poor apprentice in most cases is unable to read or write; he is never present at his registration; in fact, morally, he has not, though physically he may have, the means of ascertaining the fact. The progress of registration was as follows:—The overseer prepared a list of the negroes, which he took out of the plantation books, and lodged with the clerk of the vestry. In the list he accounted for increase and decrease; how is the negro to know whether his name is inserted or omitted? He does not even know whether his overseer has been to the clerk of the vestry; and even if he did, so loosely is business done by the parochial officials in Jamaica, and so great is their contempt for the blacks, that there would be great difficult in a person of that colour getting from them any reply. An instance of their unbusiness-like habits is here quoted. By the old slave law, the planter, when he gave in his annual list of slaves for the purposes of the poll-tax, was compelled to take his oath to the correctness of the return, and that

all those named in it had received their regular legal allowances of clothing. It came out in the investigation which occasioned the trial of Mason against Oldrey, that Mr. Mason had not given anything like the proper quantity of clothing, for some years past, to his people. The question was immediately asked how that could be, when this oath had been taken every year. It was then proved that no such oath had been tendered to Mr. Mason by the clerk of the vestry, whose duty it was to have administered it before he accepted the *givings in*.

Let us now revert to the subject more immediately under consideration, and that is, where the *onus probandi* ought to lie. It must be confessed that it appears strange to impose such a duty on any other person than the master, who, by the production of a single paper, might at once establish his right; and it does seem hard, that a man's liberty should be taken from him by inference, because he has before worked as an apprentice, and because he does not produce a certificate from the secretary's office, which he has neither the time, the money, nor the knowledge to procure. Surely the most favourable consideration ought to be given to the claimant, and the proprietor be compelled to adduce his proofs, which cannot occasion him the slightest trouble, if right is on his side. An extract from the *Telegraph*, a Jamaica paper, is added in the Appendix, (E)—it contains the trial which took place before Messrs. Hill and Higgins, and may, perhaps, not be uninteresting, as it affords a complete exemplification of the Non-Registration question.

A parallel case has been recently tried in Jamaica at the Grand Court, and until it shall have been reversed, (which it is to be feared there may be much difficulty in doing by appeal, for reasons which will be stated hereafter,) the effect of non-registration must remain, on the

opinion of the Chief Justice of Jamaica, and of Judge Allwood, precisely the reverse of what it would be, under the opinion of the Attorney-General, Solicitor-General, and King's Advocate of England. Judge Bernard differed in opinion from his two colleagues, and therefore gave his views of the subject separately. As much importance must naturally attach to the opinion of the highest court in the island, a correct copy of the judgment is inserted in the Appendix (F).

It will be for those persons who read the judgments referred to, to form their own opinion of the correctness of each. The majority of readers will probably be inclined to agree with Mr. Bernard, whose reasoning certainly appears to be unanswerable; while that of the Chief Justice will probably not be looked upon so favourably, for the following reasons:—

The civil law maxim, that "*Partus sequitur ventrem*" was the rule of ownership during slavery; the condition of the mother decided that of her child; there can be no doubt that an omission to register the parent triennially would have precluded the owner from registering her issue and increase, as was requisite in Jamaica; that is to say, if the authorities did their duty correctly, which is seldom the case. By the irregularity of the clerk of the vestry, the names of her children might certainly have been put surreptitiously on the register; but process of law would at once remove them, and the offspring not having been legally registered, would unquestionably have been free. If, however, the omission to register the mother do not affect the title of the owner to her services as a slave, which, in point of fact, appears to be the force of the argument of the Chief Justice, the condition of the ventre parent being bond, the issue, by the rule of "Partus sequitur ventrem," should have been bond also; such, however, is not the case;

and if the omission to register the parent confers freedom on the child, surely it must in the first place have conferred that freedom on the parent. This decision, this ill-considered decision, for such I cannot avoid thinking it, of the Grand Court, affords an additional reason for the appointment of other barristers as judges to assist the Chief-Justice, in order that, from there being on the bench a plurality of persons forensically educated, there may be a greater chance of the law being correctly interpreted. The present state of these courts adds materially to the practical difficulties in the way of the due administration of the law, and there is no remedy by appeal. A great principle is involved in this particular case; and because the value of the apprentice, the subject of this trial, does not amount to three hundred pounds sterling, the Governor is prohibited by his instructions from allowing an appeal to the Privy Council at home. There are thus no means of obtaining a revision of these ill-considered opinions; the special magistrate must therefore submit to injustice, against a strong perception of right, or contend against it, and suffer probably to the amount of £700 or £800, a sum he does not possess to meet the difficulty—a difficulty of which the government has been repeatedly warned, but for which it has, notwithstanding, made no provision.

In page 238 of the Appendix to the Evidence, appears an extract from a dispatch of Lord Glenelg to Lord Sligo, which shows that the necessity of doing away this instruction has been represented to him by Lord Sligo. At the conclusion of it, the following paragraph appears:—

"Your Lordship apprehends, that the only legal obstacle which prevents your revision in the Court of Errors of cases such as those of Mr. Oldrey, arises from the royal instruction, which forbids your issuing writs of error, unless the subject in dispute amounts in value to at least £300.

Whether this is a correct view of the law appears to myself questionable; but there can be no difficulty in relieving your Lordship from any restraint of this kind, so far as his Majesty's authority extends. The rule itself rests upon no solid principle; if in questions of such pecuniary value an appeal is necessary to the right administration of justice, the necessity does not cease in cases of less amount. The rule originated in the notion, that it was better for the litigant parties to submit even to an erroneous decision, than to harrass each other with the expense and the delay of a protracted controversy, unless the matter at stake were of such an amount as to raise a fair presumption that they possessed resources adequate to the charge. This, however, is to assume that the law must be administered in such a manner as to reduce all suitors to the alternative of acquiescing on the one hand in the errors of the court of first resort; or of seeking the redress of those errors, on the other hand, at a prodigal expense of time and money. It is, however, discreditable to any well-ordered society to legislate and act on such an assumption. The restriction to which your Lordship refers will therefore be rescinded, as far as it arises out of the royal instructions, by an additional instruction which I shall have the honour to transmit to you for that purpose. The measure, though suggested by Mr. Oldrey's case, is to be defended by general principles of far wider application." * *

The despatch was dated the 11th April 1836, and though the justice of the proposed alteration is fully admitted in that paragraph, and the remedy promised to be sent out immediately, we are now at the close of 1837, and the Colonial Secretary has to this day overlooked the intention which he there announced—at least no notice of the change has appeared in any of Jamaica newspapers which have yet reached England.

OPPOSITION TO APPRENTICESHIP SYSTEM BY THE HOUSE OF ASSEMBLY.

THERE is in England a proper and constitutional dislike to legislate for a colony possessing a charter, and a legislature of its own. It is impossible to deny the correctness of this feeling in the abstract, but to almost all rules there must be exceptions; and if there ever was a case in which the mother-country could be justified in legislating for its colony, the conduct, as well of the House of Assembly, as of the majority of the planters, would make Jamaica that exception. Let us first speak of the House of Assembly.

Much has been said before Mr. Buxton's Committee by one competent witness, (who, however, never has been in Jamaica since the Abolition Law came into force: and who therefore can know nothing except from the letters of those of whom he is the paid agent,) in denial of the opinion advanced by so many witnesses recently returned from the colony, who maintain that an organized opposition to the new system prevails there. It can be shown that the House of Assembly, with but very few exceptions, and consequently, their constituents, form a party, whose most ardent desire it is to upset the apprenticeship system. Their blindness appears almost incredible. The injury they have done, not only to their English constituents, (I speak of the attorneys) but to themselves, is beyond belief; but bitterly will they feel the fruits of their folly, after the termination of the year 1840. Instead of the good opinion of the negroes having been conciliated, and their dislike of their masters, whom they look on as oppressors, having been diminished, the feeling of mutual distrust appears to gain force daily. Let the whole of the proceedings of the

Assembly, since the 1st of August 1834, be closely examined, and it will be seen, that in no one instance has that body passed an act in furtherance of the measure of Abolition until compelled; and that every extraordinary enactment, which has been passed by it, bears a precisely opposite character. Their second Act in Aid contained provisions of such a nature as very properly caused it to be disallowed. An attempt was soon afterwards made by the Assembly to confer the special jurisdiction on the whole of the local magistracy, in direct opposition to the spirit, as well as the letter, of the Abolition Law. When that attempt was defeated, another effort to effect their purpose was made. A joint address from both branches of the legislature was presented to the Governor, although he had distinctly declared, from the moment that the question first came under discussion, that nothing should induce him to consent to it.

Subsequently, it may be observed, the Assembly refused to contribute, by any local enactment, to prevent the flogging of females in the workhouses, and the cutting off their hair for purposes of annoyance. They also refused to pass the renewal of the first Act in Aid, in the original form, until their contumacy was punished by that law being passed in the imperial Parliament. They were thus compelled to its re-enactment in the most humiliating manner, thereby publishing to the world the absurdity of their claims to legislatorial independence.

As the House of Assembly is formed, in a great measure, of the principal attorneys in the island, the influence of its members must be very great, especially as concerns the overseers and book-keepers on the estates under their management. The feelings of these subordinates must be essentially the same as those of their principals, and however those principals may act or speak moderately,

their real sentiments may be gathered from the conduct of their agents; and it has never been denied that those agents have evinced a determined and unceasing opposition to the new system.

The House of Assembly consists for the most part of men who have passed their lives surrounded by slavery, and have accumulated, under its influence, large fortunes from small beginnings. It is therefore hardly to be expected that it should have tendencies, collectively, favourable to a system which has deprived them, or at least must soon deprive them, of all those advantages under which they have prospered.

The incautiousness of the people of Jamaica, in hazarding the most hardy assertions, and thinking that they will be received as proof, has been remarked before. Instances of the gross mistakes they have thereby made have been given. What, however, must the House of Assembly think of that passage in their statement to Lord Glenelg, (Evidence, pages 302 and 303) wherein they say, "That the House repudiates in the strongest terms they can find, the accusation, that the whipping of females is practised in Jamaica." How can they reconcile that part of their representation with the Report of Mr. Buxton's Committee, wherein it is specifically stated, that many instances of this practice had been discovered by Lord Sligo?* They admitted its occurrence in only two instances, though proofs on oath, of more than forty, had been transmitted home by his Lordship to Lord Glenelg, and copies sent to them. It would seem, as if they had, by a kind of voluntary self-delusion, persuaded themselves of the truth of their own assertions, and therefore refused to apply any remedy. At all events, no remedy was applied.

* One instance has recently occurred in Spanish Town, and two in the workhouse of the parish of St. David's.

In page 376 of the Evidence, Reply 4302, a very strong opinion is given by a person who had long resided in Jamaica, and who is certainly second in talent to none in the island, that the Assembly had never framed an act relative to the apprentices, in which it had meant to deal honestly with them. In reply 4306, he further says, that in consequence of the conduct of that body, most reasonable men in the colony think that the functions of the legislature ought to be altogether suspended during the apprenticeship. His opinion of that body is clear from his reply 4316, when he was asked whether he was aware of the disposition and feeling of the members of Assembly, at the time of his leaving the island. His answer is distinct. He says,—"That he was aware of their feeling; that he thought he had never known it more hostile to the black population, than it was at that moment; and that their unceasing object was, to contrive to frame their laws with such adroitness, that they might re-enact as much as possible of the ancient system of slavery, under a new name;" and added, moreover, "that they made very little secret of it."

The truth of Mr. Beaumont's assertion is exemplified in a remarkable manner in the present Police Law. An act for the establishment of such a body was passed in Lord Mulgrave's time, but it was found to be totally inefficient—it may indeed be said, the plan was so impracticable, that no notice was ever taken of it.* On Lord Sligo's arrival, he suggested one, which was taken into consideration by the Assembly, but so distorted by that body, that it was impossible for him to accept of it. He negatived it at once, and after some negociation with a few

* It is reported that his Lordship held that opinion of it, but that he did not think it judicious to irritate, just at that moment, the feelings of the members, by declining to accept the very imperfect measure presented to him.

leading members, prorogued the Assembly for a day, in order to afford an opportunity for the reconsideration of the measure; when a bill was brought in, approved, and passed accordingly. Its duration, however, was only for eighteen months, and when it was renewed, the number of privates was reduced from 1000 to 700, which was less than the necessities of the country required. No more men, however, were voted; and many complaints having been made of the quantities of produce which were stolen from the different properties, clauses were inserted, directing the apprehension of all suspicious persons wandering on the roads, or those who could not account for anything they might happen to be carrying with them. The police were directed to convey persons offending against this law before the special magistrates, on whom were conferred certain powers of punishment.

There is not much objection to be made to this act, excepting that wood and grass were included in the schedule of produce which they were not to convey to market without a ticket of license from their masters. Now, in a country overrun with wood, a great deal of which is unclaimed, and where the power to cut and sell these articles is very frequently given to the negro as a substitute for provisions, and where an overseer, relaxing from the labours of the day, will not be much inclined to leave his table to write a permission for a negro to go to market, this affords a means of much oppression. However, as the adjudication of such cases was vested solely in the special magistracy, there was less fear that this power would be abused.

In the course of the last session, a second renewal of the Police Bill, if it can be so termed, was proposed, passed the two branches of the legislature, and has become law, wherein the numbers were reduced from 700 to 500, and the adjudication of the produce-stealing cases was

transferred to the general body of magistrates, of whom not less than two were to sit in judgment. There is some ingenuity in this device. It is an alteration not likely to excite attention, or if it does, it would appear to a person not acquainted with the distribution of the districts of the special magistracy, to be one likely to ensure greater caution in the decisions. It is, however, quite the reverse. It gives a greater opening for oppression of the negro than any one of the many which have been recently brought forward.

In the former act, the adjudication was vested in the special magistrates alone; here it is extended to the local magistracy. This is a serious change, and one very unfavourable to the negro.

To use Mr. Beaumont's words, "so hostile are they to the black population," that a decision against the apprentice is nearly a matter of certainty. It may be said, perhaps, that as the special justices all hold a general commission, no great change will take place, and that they will still, from being always to be found, continue to decide all such cases. Here lies the mistake, originating in a want of knowledge of the division of the island into districts, and the appointment of one special justice to take charge of each. In consequence of this distribution, it rarely happens that two special magistrates can sit together at any place, with the exception of the principal towns of Kingston, Spanish Town, and Montego Bay, where more than one occasionally hold sessions. Thus, practically speaking, the special justices are as much excluded from administering this part of the law, as if specifically excepted. This must have escaped observation, or the law would not have been accepted by the Governor; at all events, it would have been disallowed by his Majesty. Surely no stronger proof can be given of the desire of the Assembly to evade the Aboli-

tion Law, and to get imperceptibly the power out of the hands of the special magistracy.

Nothing has been said about the diminution of the number of the police, because its insufficiency in consequence of that reduction is quite notorious, but the motive for it is more worthy of attention. The police is a force entirely at the disposal and under the influence of the executive; it therefore became necessary for the purposes of the planters to diminish it, and supply its place with one more devoted to their wishes. For that reason they are now taking measures to increase the militia, of which the overseers and bookkeepers form a considerable part. These, it need not be said, are completely under the influence of the attorneys, who are their employers; and of them may be said what was before applied to certain emigrants who returned to France with Louis XVIII, that they are "*Plus royalistes que le Roi.*" The zeal of the militia during the last rebellion would make an humane man dislike to see them again employed against the blacks.

Under the deficiency law, which required a certain number of whites, or free people, to be kept in proportion to the number of slaves, it frequently happened on large estates, that where the number of bookkeepers necessary for its management did not amount to the requisite proportion, unemployed white people were kept, in order to avoid the pecuniary penalty. These, from having nothing to do, and no hopes of improving their fortunes, were often drunken, disreputable persons, and put the estate to great expense, as well for their salaries as for their maintenance. As soon as the deficiency law expired, of course all these useless hands were discharged, and faithful apprentices were in very many instances entrusted with the charge of their masters' estates, as book-keepers, if not actually as

overseers. Very considerable saving was thereby made in the estates' contingencies. The attorneys in the Assembly finding a great decrease in the numbers of militia-men devoted to their opinions, have this year put their principals in England to a great additional, but perfectly unnecessary, expense, to gratify the wish of keeping all the power in their own hands. But if English proprietors and mortgagees will not look after their own business, and will allow their agents to act in this manner, why should they not act according to their fancies?

The Assembly have farther shown their disregard to the wishes of the mother-country, by a most unconstitutional advertisement which appeared in the Jamaica Gazette, purporting, that although the several immigration bills which had been sent over to the Council had failed, owing to their having been amended there, and their amendments having been disallowed by the Assembly when returned, they would pay twelve pounds bounty for every immigrant imported into the colony previous to the next session.

This is neither more nor less than declaring their determination to make a grant of money without the consent of the other branches of the legislature. It will be said that this is impossible; literally it may be so, but practically it can be effected in a manner which has been publicly specified by some of these indiscreet persons. Their plan is to insert such grants as they know will not be approved of by the other branches, in the appropriation law, or "poll-tax bill," as it is there termed. This provides for the payment of the public creditor, and therefore no Governor would like to throw out a bill which would inconvenience so many persons; but it is time now to keep things in a proper constitutional course, and it is therefore to be hoped that the Secretary for the colonies will have decision enough

to issue orders to the Governor, to withhold his consent to any bill containing matter from which either he or the Council may disagree.

A new bill was also passed last session, called the "Larceny and Petty Offence Bill," the apparent object of which is to consolidate all former acts on the same subject into one. This it has effected; but another very important power has been slipped into it, as reported in letters from Jamaica, (no copy of the bill is known as yet to have reached England excepting one in the Colonial Office); it confers on, or confirms to, the general magistracy, the power of transportation for some minor offences. In 1832 Lord Goderich, when discussing measures preparatory to emancipation, said that such deeply-interested persons were not fit to be trusted with legislation, on points connected with slavery. He most justly thought "that the local legislatures were not so situated with regard to their own interests and prejudices, as to fit them to deliberate on this great and important question. He could not admit that their proximity of observation was an infallible, or even a safe guide to sound conclusions on the subject. He did not find in them a freedom from local or personal interests, such as could warp their judgments, nor did he see in them a mind open to the admission of truth, from whatsoever quarter it might come." How true have subsequent events proved these remarks to be! and if they were applicable to the planters of Jamaica in cases where there was an ultimate resort to the sovereign, how much more applicable must they be to these legislators when trusted with the executive part of this most formidable law! Notes of the evidence at quarter-session trials are seldom kept, never indeed by the magistrate presiding, but only by the clerk of the peace, who is not responsible to any person for mistakes

or omissions, and therefore the Governor has no efficient means of counteracting any oppressive acts which may have arisen from ignorance of the law, or any other cause. This bill, it is true, will save much trouble to the judges of the assize courts, but they are paid for doing their duty, and ought therefore to do it. Any matters brought before them will be argued by barristers, and though mistakes may arise, there is a legally educated judge to preside, and at all events publicity to check bad feelings, if such by any misfortune exist.

It may perhaps not be considered inappropriate to introduce here an account of a transaction which took place in the summer of 1836, for the purpose of shewing how much the laws actually in force may be perverted,—how, with the present excited feelings of the Colonists, a perfectly unobjectionable law may be turned into an instrument of oppression. The affair in question was the prosecution of an attorney of the name of Harvey, in Spanish Town, the detail of which follows:—

By the Jamaica Act, 5th Wm. IV, c. 7, sec. 20, called "The Act in Aid," all persons harbouring or employing any runaway apprentice are liable to a penalty of £10, for each person so harboured or employed, and 10s. a day besides for each labourer, for each day he shall be proved to have been so.

"M. N. G., a planter of St. Thomas in the Vale, against Harvey of Spanish Town, a solicitor. In this case, nineteen apprentices of the complainant came unexpectedly in a body to Spanish Town, twenty-one miles from their master's property, for the purpose of seeking protection against their master for several injuries received, and of having him bound over to keep the peace. Affidavits were immediately taken, which disclosed circumstances of a serious

nature on the part of Mr. G., as well as matter for numerous actions against him for injuries to his people and their stock. All that the defendant could do, was to allay their fears, and prevent future injury by binding their master in sureties of peace. In this an unavoidable delay of five days was incurred by the refusal of the judges to interfere. A new commission to a magistrate was issued; whereupon the oaths were administered. Mr. G. was ultimately bound over, and the people returned to their work."

By way of retaliation for this interference, proceedings against Mr. Harvey for harbouring were issued before four local magistrates of the parish of St. Catherine, and he was fined £199. 10s. Those proceedings have since been removed at his instance by certiorari into the Supreme Court, in order to try the question, whether an act done in a professional character can be construed, in the legal sense, into harbouring.

The question still remains undecided, and has raised a strong feeling on the part of the local magistracy. It appears that the penalty may be raised by seizure of goods and chattels, or, in default, by imprisonment; and to this Mr. Harvey was condemned; but he declared that he would submit to the imprisonment for the sake of other similar cases, and try the question by appeal to the Privy Council, under the announcement conveyed by Lord Sligo to the public, that there was not to be in future any limitation of value on appeals. His motive for so doing, was to ascertain how far the negro could be deprived in this manner of his constitutional right of appealing for liberty through his solicitor to the superior courts. If a solicitor was to be fined a large sum for detaining certain apprentices, who came to consult him professionally, and who were not *harboured or employed*,

but unavoidably detained for the completion of the documents necessary for the law proceedings to establish their freedom, it would amount almost to a deprivation of the negro's rights. Such solicitor might, however, from philanthropic motives, proceed in the cause, and then appeal to the Privy Council at home against the fine; though, be it said, the right to such appeal, so announced by Lord Sligo, has been no more heard of since his departure. One case more of the process for recovering the freedom of an apprentice is added, solely for the purpose of showing how the liberties of these poor negroes have been trifled with, and how laws, which apparently are impartial in their operation, are often, in that colony, made subservient to the prejudices of its administrators.

"Treadway, a bookseller, of Kingston, against —— an officer of the commissariat, for harbouring an apprentice named Ashburne. A conviction for penalties was obtained before the local magistrates of Kingston. On a writ of certiorari, at the instance of the defendant, the proceedings were quashed in the Supreme Court for irregularity in form."

The facts were these. Ashburne, a confidential servant, was for many years accustomed to work out on leave, accounting monthly or oftener to his master for wages, and being allowed about a third of his earnings for his support. About six years ago, an opportunity was offered him by his former master of purchasing his freedom; but not being able to raise money for that purpose, he applied to Treadway to befriend him; upon which, according to Ashburne's statement, Treadway consented to advance the required sum, on condition that a title should be made in his name, and that Ashburne should remain in bondage to him, until, by means of his wages, or other payments, he could work

out the amount; upon repayment of which, with the interest accrued, he was to be absolutely free. On this agreement, which was not secured by writing, Ashburne was transferred, and continued to work out, rendering to Treadway a portion, as formerly, of his wages, until about two years ago, when calling for an account of his payments to Treadway, which should then have accumulated to the full price paid, he was informed that Treadway considered all the intermediate wages his own in his right as owner; and that he would not emancipate Ashburne unless upon payment, in addition to the wages, of the sum originally advanced. Upon this violation of the alleged agreement, Ashburne refused to continue his payments. The proceeding for harbouring was therefore issued, and Ashburne was forbidden to be hired by any one under the penalties of the law. The defendant in consequence dismissed him from his service. For refusing to return to Treadway, Ashburne was subsequently advertised as a "Runaway," which, preventing his employment, threw him out of bread. By the Attorney-General's advice, a bill was filed for Ashburne in formâ pauperis, to compel from Treadway a discovery of the agreement. Shortly after Treadway died, and no further obstacle to Ashburne's freedom took place.

There were several enactments besides passed of a similar tendency, but not of sufficient importance to merit notice.

Now, though every one cannot go quite so far as Mr. Beaumont in desiring the suspension of the powers of the House of Assembly, that being a measure rather too strong for any circumstances to justify, short of the general and clearly expressed opinion of the colony itself, yet it will not perhaps be denied, that if ever an exception should be made to such a principle, such exception could be nowhere less ob-

jectionable than in Jamaica. The abolition of the Assembly has been before made the subject of a very distinct expression of public feeling; but as it has not been recently repeated, the object in stating the above defects in its mode of action, is to create greater watchfulness in the authorities, both in the island and at home, over the measures which are allowed to become law; and to show the necessity of legislative intervention by the Imperial Parliament, if there exists any real desire to carry into full effect the humane intentions of the British nation, during the remainder of the Apprenticeship.

GENERAL OPPOSITION TO NEW SYSTEM.

It cannot be doubted that the House of Assembly has, by its opposition to the Apprenticeship System, materially endangered the ultimate success of the measure of abolition; but whether the greatest harm has been done by its acts, as a legislative body, or by the example that its members have given to their dependents, the overseers and bookkeepers, it is difficult to determine.

The opposition of the persons actually employed in the management of estates, and of the public generally, has been manifested in various ways. First, in their conduct with regard to the eight and nine hours system. During the time of the crop, when not only the interests of the estate, but the credit of the manager, is involved in the manner it is got off, and the quantity of produce made, the nine hour system was adopted. This mode of working was notoriously most pleasing to the negroes. It enabled

them to sell more of their own time for wages to the estate, and made them more inclined to come to an arrangement for the disposal of it. Much has been said by the planters in their various public documents and private appeals, of the want of sufficient labour, and the impossibility of prevailing on the apprentices to furnish it for wages. In order to obtain proof of the fallacy of these opinions, reference must be made to part 2nd of Slave Abolition Papers, No. 278, page 266, and to Appendix to the Evidence, page 134, *et seq.*, and to page 162, *et seq.*, where it will be seen, that the negroes on 758 estates had agreed to work for hire. That on 376 estates, wages had neither been offered nor refused, and that on 126 only had there been a positive refusal to accept them. Various causes, totally independent of the willingness of the negroes to work, may have produced this last result.

Thus did they manage in crop-time—to what plan did they resort for the remainder of the year? to the eight hour system; and they alleged as their reason, that they did not want so much labour then; that they could not afford to pay for it;* and lastly, that under this plan there was less time for the negroes to fatigue themselves by wandering away from the estates. Now, when the feeling of these apprentices towards their friends is so strong, as to induce them not uncommonly to walk many miles, and sacrifice a night's rest to pay them a visit, what right have their employers to prevent persons, free in every respect, excepting so far as the forty and a half hours' labour per week due to the master is concerned, to enjoy themselves as they like? The planters found, in fact, that they could not interfere at all, directly, and therefore for pur-

* Why, then, did they complain of want of hired labour?

poses of annoyance devised this scheme, which an incautious clause in the Abolition Act leaves in their power. By the abuse of this clause also, the apprentices are prevented from working their grounds, often ten or twelve miles from their residences, on the half Friday, and therefore cannot go to the Saturday's market more than once a fortnight. This is a serious grievance to them, it being one of their very few enjoyments. What right, after the adoption of such a system, will the planters have to complain, if the negroes become disgusted, and refuse to work at all for those who have created such vexations for them? Proprietors in England are those who will in the end be the real sufferers, but they are not aware of the misconduct of their different agents, who seem desirous of counterbalancing, by the adoption of this plan, the advantages which the negroes have acquired under the Abolition Law. Dr. Madden in his reply, 596, in the Evidence, says, that "he attributes it solely to a desire to offer a vexatious opposition to the apprenticeship system," an opinion from which it will be difficult to dissent. There is another motive also for its adoption, which ought to be noticed, namely, that they were enabled thereby to cheat the apprentice out of many hours' weekly labour, without his having the possibility of detecting it. Watches the apprentices have not, or if they had, would they understand them? and it is quite certain, that though there is a nominal reduction of the hours per day when the eight hour system is adopted, there is no real diminution of the time of labour. For proofs of this, see Evidence, Madden, 492, 592; Oldrey, 1224, *et seq.*; Beaumont, 4043, *et seq.* In conclusion, as to these two systems of labour, it may be unhesitatingly asserted, that the negro would prefer to be worked for twelve hours per day for the four first days of the week,

and half Friday, than work nominally eight hours per day for the four first days and the whole of Friday. Captain Oldry, in his Evidence, No. 3234, declares, that in his district the eight hour system was adopted only on the estates of those who were most opposed to the new law. It is, however, fair to state, that the practice has latterly much diminished, owing to the zealous exertions of the special justices, and to a dawning conviction of the inutility of adopting vexatious measures.

The withdrawal of the usual allowances to the negroes, was another injudicious and unjust act. Though not rendered imperative by law, they have been so long sanctioned by custom, as to cause the negroes to think that in losing them they have been defrauded of their rights. The reason alleged for this determination was, that the estates could no longer afford such an expenditure. It is to be urged in reply, that the outcry of the extinction of West Indian property has continued ever since 1823, and that those indulgences were, notwithstanding, given since that time, though not enforced by law; moreover, that the last three years, 1834, 1835, and 1836, were the most favourable years which have been known for a long time, and that, therefore, any extraordinary outlay could have been much better afforded in these than in the previous years.

One of the withdrawn allowances, or rather indulgences, on many estates, is the service of an old decrepid woman, to watch the suckling children in the field while the mothers are at work. The old nurses so employed are never capable of any severe labour; is it therefore for economy, or for some other reason, that they are withdrawn? The benefit of the proprietor is not consulted, because the mother, being compelled to work all day in the fields with her infant strapped to her back, cannot, in that climate, do half the

work that she could if her child were placed in the shade, and if she were allowed to go to it, when her maternal duties rendered her presence necessary. The negroes were also deprived of their water carriers in the field. Those who are acquainted with a tropical climate, will feel what a serious privation this must be to persons working all day under the sun. The scarcity of water, too, in the fields, adds to the distress occasioned by this device. If thirst compelled them to get something to drink, they must go perhaps to a great distance to fetch it, and this, together with cooking their dinners, (for their cooks have also in some cases been removed,) used to take up most of their mid-day hours of rest; though, latterly, these vexatious annoyances have been much discontinued. Their existence, however, at the commencement of the apprenticeship, shows the disposition with which the question was met by their masters, until they found themselves compelled by self-interest to abandon the system. It is but fair, at the same time, to say, that in none of the large and important estates, with but few exceptions, was this system practised.

Of the deprivation of their fish, &c., nothing more can be said, than that it was most inexpedient, as nothing tended more to discontent the negro. One of the grossest infractions, however, of the abolition act, and one which is only to be attributed to the overseers, took place in the parish of St. James. The overseer was fined by Messrs. Finlayson, Carnaby, and Facy, three special justices, for oppressive and illegal conduct. When the amount of his fine (£5) was announced, he quietly said to those magistrates, "It is not me, but the apprentices you are punishing; you don't think I will pay a penny of that myself: oh no; I will sell as much of their allowance of fish as will pay it, instead of

giving it to them, and they will then be the losers, and not I." This was not uttered from the angry impulse of the moment, but from cool calculation. He did sell their fish for this purpose; and if common report be credited, many similar fines have been disposed of in a similar manner. Thus again the local opposition to the law acts to the detriment of the proprietor. An attempt was made, but speedily defeated, to make the apprentices repay the time lost in childbirth, under the plea that the offspring no longer belonged to the owner of the mother, and that he had a right, under all circumstances, to his forty hours and a half labour in the week. It was also attempted to make them repay the time lost in attendance on their sick relatives; the mother, if she attended a dying infant; the child, if it attended its dying parent; but the Governor at once put an end to this attempt, and the case was too monstrous to admit of contest. In many cases the allowances were continued solely under a special agreement that the apprentices were to give so many hours labour in the week in return for them, and great credit was taken by the attorney, in his reports to his principal, for having made so good a bargain. The principal at home has, probably from ignorance, viewed the matter in the same light, and will hereafter suffer accordingly. It is presumed, that, after the various facts which have been stated, no doubt can be entertained of the existence in the Island of a pro-slavery party. If, however, the testimony of an individual can add any weight to them, a reference to Captain Oldrey's Evidence, Nos. 2988, 3021, 3070, 3138, and 3159, will abundantly show what is the opinion of that most competent witness.

PRESENT WORKING OF THE APPRENTICESHIP SYSTEM.

With regard to the manner in which the Apprenticeship System is now working, very little remains to be said, because there is little room for doubt. All the past memorials of the Asssembly and of parishes; all the representations of the attorneys to their proprietors, made in many cases to explain occurrences which were the result of their own injudicious management; and, in short, all the loud declamations of individuals misled by the short-sighted views of the residents of Jamaica, seem to have been completely contradicted by the testimony of all those who have recently returned from the colony, and have been examined before Mr. Buxton's Committee. This affords another proof of the hasty and hardy manner in which assertions are there made. It appears, however, that the intellect becomes clear, as soon as the effects of the climate and soil, or the associations of Jamaica, cease to exist. The understanding in this cool country seems to have operated in a remarkable manner on the colonists, in producing a change of opinions, such as the actual change of circumstances could hardly have occasioned. Allusion is here made, more particularly to the evidence of the late General Miller. His talent, intellectual qualities, and excellent character, are abundantly proved by his success in life. From a very low origin, he raised himself to the possession of great wealth, high consideration, and the management of fifty estates. He was a general of militia, custos of his parish, and a member of council. He attained all that was open to him, and was unquestionably the most extensive attorney in the island. His last act, previous to his departure in June 1834, was

to preside at a meeting of the principal inhabitants of Trelawney, when that parish was declared to be in a deplorable state; when it was asserted, that owing to the impossibility of procuring labour from the apprentices, no preparations had been made for the next year's crop; and that the apprenticeship system was, in fact, an utter failure. This memorial he conveyed, as custos, to the Governor, who, at once, called on the special magistrates for information on the subject. Their letters, and the memorial, each contradicting the other, appear in the parliamentary papers. With only these two statements before them, the public could scarcely come to any conclusion as to the real state of Trelawney. It was a question of veracity, and as there were seventy-three persons stating one fact, and only four, the special justices, asserting the reverse, the weight of evidence must have leaned to the side of the planters. Those, therefore, who think that the statement of the special justices was correct, must feel much pleasure in finding Mr. Miller's own evidence corroborating their views. It is particularly satisfactory to find the chairman of that meeting coming forward, to prove that the resolutions passed at it, do not accord with the state of Jamaica in July 1836, when he gave his evidence. Indeed, it is doubtful if he thought so, even at the time of the meeting, as in his replies 3812, *et seq.* he admits that he signed those resolutions as chairman, and that it was his duty so to do, whatever were his opinions. Others however, similarly circumstanced, usually leave the chair. He added, that not recollecting precisely what the opinions contained in that memorial were, he could not say whether he agreed to them or not. Thus, he accounts for the seeming discrepancy between his conduct in respect of the memorial, and his evidence before the committee. Let us now see what was the testimony he then gave.

In reply 3468, he says, that the system is working better than when he left the island, and that he could, previously to his embarkation, perceive the symptoms of improvement. Now, it appears curious, that his conviction of the improvement of the working of the new system, should have come across his mind, just at the time of the meeting, at which the memorial was adopted, and that he did not then express his dissent from resolutions of a tendency so contrary to his own opinions.

In reply 3601, he declares that the indisposition of the apprentices to enter into arrangements for labour was beginning to disappear. This is an important admission from the mouth of so extensive a planter, when the reverse is still a matter of complaint in the island, although the dates of the parliamentary reports of the numbers of estates, on which labour for hire has been obtained, would seem to prove that this indisposition had ceased long before. In 3602, he reports that the system has improved; and in 3604, he admits, that on the properties under his management, the crops were taken off for wages from the commencement. Now the estates in Trelawney under his charge were so numerous, and of so consequential a character, that if the disposition of the negroes on them was stated at that meeting, it must have much influenced the resolution about the impossibility of procuring labour for hire. In 3606, he states, that the increase of the number of hired labourers was reported to him by every packet. In reply 3607, he admits, what contains the solution of the enigma, that he had heard that there had been an indisposition to offer wages, but, that neither that indisposition, nor the disinclination to accept them when offered, any longer existed; yet, in reply 3611, he states, that with all this good-feeling and willingness to work for hire, it would be impossible, under existing circumstances, to take off

a full crop in the manner it used to be done. What other inference can be drawn from this evidence, excepting that under the slavery system, a greater amount of labour was extracted by compulsion from the negro, than the system of rewards, generally so successful, can accomplish? Can there be possibly a more conclusive proof, of the necessity of the recent change from slavery to freedom? It is worth volumes of evidence. It is a practical proof from a practical man, unconscious of what he was proving. In reply 3720, he alludes to his former evidence before the House of Assembly in Jamaica, and admits that his opinion has undergone considerable modifications in the interval. Does not this admission prove the exaggerated state of public feeling, when a man so well qualified to form a correct judgment, finds himself compelled to announce a change of opinion, which no intermediate change of circumstances appears to warrant? That there was a great alteration in the mutual feelings of both classes, is undeniable. All concurrent testimony proves it; but there is nothing to justify of itself alone the great variation of opinion which has been reported. The whole of the replies of Mr. Miller, immediately following No. 3812, are most interesting, and bear unequivocal testimony to the present favourable state of the new system.

Next to be considered is the testimony of Mr. Oldham, a man in no way inferior to Mr. Miller, or indeed, to any one else in the island, as to high character, ability in the management of estates, and success in the adoption of the new system. The whole of his evidence is deserving of the most serious consideration. He gave a remarkable proof of his confidence in the apprenticeship system, almost immediately after the Emancipation Law came into force, at a time when almost all other well-informed planters

took a very different view of the future prospects of the colony. Having some estates in St. George's under his charge, he happened to pay a visit to a neighbouring acquaintance in that parish, who was complaining loudly of the results of the 1st of August, and when Mr. Oldham expressed his dissent from those opinions, he was taunted by an offer to sell him the estate which he was then visiting. Though no previous idea of purchasing that property had ever come across Mr. Oldham's mind, yet, being well acquainted with its capabilities, in a few hours he concluded a bargain; and in a very few days the transfer was completed. This estate was, at the moment, in the most complete state of disorganization. There was certainly a good crop on the ground, but at least half the negroes were in different workhouses; many were actual runaways, and the property gave full employment to the special justice of the district. From the time that the transfer was made, there appeared to have arisen a total alteration in the conduct and disposition of the negroes; and this proves, that most of the difficulties which have attended the change of the social system in Jamaica, have originated in the mismanagement of the attorneys. It is said, and it may be believed, that there has not been a case of serious complaint on it ever since. Mr. Oldham has certainly been heard to state that the whole of the purchase-money has been subsequently repaid by the produce of the estate.

Mr. Maurice Jones, custos of Portland, who had resided for upwards of fifty years in the island, in his reply 5315, gives precisely similar testimony.

Mr. Shirley, who left England to visit his splendid properties of "Hyde Hall," and "Etingden," in Trelawney, says exactly the same thing in his reply, No. 5032. His evidence ought to have much weight, as he went to the island perfectly unprejudiced and unfettered; and

struck out for himself a new plan of management under the apprenticeship, which has been eminently successful on his estate. These testimonies are most valuable, all presenting the same favourable view of the state of the colony; and all proceeding from persons recently returned. It is a curious circumstance, that there should be a perfect unanimity of opinion amongst all these witnesses, and that there should be a similar unanimity, though of an opposite character, among those resident in the island, with but a small exception. The resident proprietors must, however, never be confounded with the attorneys; they are a perfectly different class, having different feelings, and acting in a different manner. Well would it be for the island, if there were more resident proprietors and fewer attorneys.

Let us now, however, refer to one, and only to one more witness,—Mr. Burge. He yields in importance to none, as he is the representative of the feelings of a powerful and influential body in the island. From the nature of his avocations, and from the distinguished office of island-agent, which he holds, notoriously under the patronage and protection of a party, who were known to be peculiarly opposed not only to this individual measure, but to all others emanating from the British connexion, it will naturally be supposed that his opinions must very much coincide with theirs. He disavows the idea that the appointment he holds can influence his evidence. This appears an unnecessary assurance, as Mr. Burge is, undoubtedly, too honest a man to let his opinion be so influenced, if aware of it; but, as all his communications relative to the state of the island proceed from them, it is quite impossible but that his impressions must accord with the weight of testimony submitted to him. Notwithstanding, in his replies, 3313 *et seq.* he gives precisely the same

opinions as to the improvement of Jamaica, which have been given by the others. Need we go further for proof of the real opinion in Jamaica of the party hitherto termed the pro-slavery party?

As additional proof of the state of the island, which is inseparably connected with the working of the apprenticeship system, it may be as well to state, that the government, or rather the Admiralty Wharf at Kingston, was sold lately, for more than three times what it would have realized previous to the emancipation: that Mr. Oldham offered £10,000 for two estates, belonging to Mr. Maurice Jones of Portland: that Mr. Joseph Gordon, an extensive attorney, offered £20,000 for another; and finally, that Mr. Richard Barrett, the speaker of the Assembly, has bought three pens within the last two years. Mr. Joseph Gordon's offer was for a coffee plantation, and Mr. Oldham's for a sugar estate. Thus, it appears that every description of property is in request, and has risen in value.

MANAGEMENT OF ESTATES.

A FEW words may now be added, without impropriety, respecting the general management of estates, which certainly much affects the future prospect of the planters.

The system generally adopted during slavery, at least until the latter part of its existence, of paying the attorneys for their trouble in the management of the estates by a per centage on the gross receipts of the produce they send to market, has been the cause of much injury to the British proprietor. That attorney who produces him the greatest annual crops, generally finds most favour in the eyes of

his employer; and, naturally so, when the circumstances under which the amount is increased do not fall under the immediate observation of the person most interested in its economical management. The attorney, anxious to increase his reputation, forces land into cultivation, which is unfit for it, and consequently incurs a great expense in manuring, clearing, and jobbing labour generally. The proprietor is informed of the number of hogsheads of sugar, and puncheons of rum, which are sent home; but he does not know, till the end of the year, when he gets his merchants' accounts, how much the contingencies, (or expenses of cultivation as they would be termed here,) are increased by the additional produce. It has often occurred, that an attorney has produced several hogsheads of sugar, at a gross expense of £20 an hogshead, which has afterwards sold for only £16; and yet he has gained credit for his management, and, perhaps, receives in consequence other attorneyships, though, in point of fact, his conduct ought to be much reprobated. Some attorneys might have acted in this manner from self-interested motives—some from ill-judged zeal, and want of due consideration; but the evil arises from the mode of payment. Were they paid by a per centage on their net, and not on their gross, proceeds, the result would be different. What is now really the fault of the attorney, but attributed by him and his principal to the depreciation of West Indian property, would, most probably, not exist, and the adoption of such ordinary precautions as are taken in all common mercantile concerns would ensure an equally favourable result. In point of fact, the great secret of making estates in the colonies profitable is to diminish the expenditure both there and in England. The English expenses are those incurred for supplies, those in the island for cultivation, or for other matters which will be further alluded to pre-

sently. It has occurred to the writer, to have had an opportunity of examining the annual supply list of an estate for some years past, and it exhibits essentially and radically the folly of the system. There appears in each list a marvellous coincidence of the same number of tea-cups and saucers, of black tin jugs, of press-locks, and of different clothing, as if the number of slaves had always been the same, and as if there was precisely the same breakage of delf, and spoiling of press-locks, in each successive year. In the store of that estate were found recently vast quantities of those annual stores, which it would have taken years to consume; but still the same demand was repeated for each year. The overseer who usually makes out these lists, fears to offend the English purveyor of supplies, by diminishing the quantity, and by that means decreasing his profits. The attorney, who sometimes does not see the estate which he manages above once or twice a year for a few hours at a time, leaves all these matters to the overseer, and taking for granted that the list sent to him is correct, forwards it probably without perusal. Thus a great unnecessary expenditure is created.

The supply of herrings or salt-fish is another ground for much abuse: the quantity of sugar, rum, corn, fresh meat, salt meat, &c., which is consumed, amounts to an enormous sum. The time of the negroes is often taken up in planting corn for the use of the white servants of the estate, when most required for the cultivation and clearing the canes. It would effect a considerable saving, if all English proprietors directed a fixed sum to be paid to the overseers and book-keepers, lieu of all sorts of provisions, giving them neither food nor liquor: a portion of the latter would probably be taken surreptitiously, but the opportunity of extensive abuse would be done

away with, and a great saving ensured. It would be also highly for the benefit of estates, if a money allowance were given to the apprentices instead of fish or clothes, so that all opportunities of waste or pillage might be precluded. The overseers and book-keepers, particularly the former, require a horse to be kept for them; but owing either to the indulgence of the attorney, or his want of observation, there is hardly a white servant who has not a brood mare or two, and a number of foals and young horses, all fed at the estate's cost. The number of visitors besides to the overseers, &c., all of whom are provided with eating and drinking at the expense of the proprietor, is enormous; while so great used to be the ostentation of economy, that, the moment a book-keeper or overseer committed so great a crime as to *marry*, he was at once turned off the estate, in order that the proprietor might not have the expense of feeding his wife and children. Yet there is hardly an instance of any one of these discharged persons not having found an immediate asylum and maintenance on any estate to which he might choose to go. Such are the strange contrarieties in their ideas of economy. Lord Sligo, while Chancellor, issued orders to the receivers of most of the estates in Chancery, to give a money allowance instead of food to the white servants, and then they might entertain as many guests as they pleased at their own expense. The overseers and book-keepers, from the advantages they had under the former system, which even now prevails in many estates, rapidly accumulated fortunes. They made small speculations in coffee, that being considered the most convenient kind of produce to send home: the estate's coopers generally *obliged them*, by making up, (in their master's time, however, and with their master's staves and hoops) a few coffee tierces; the estate's wagons carried them down to the wharf, free of cost; the wharfinger, who

did not like to offend these persons, for fear they should induce the attorney to deprive them of the estate's custom, charged them nothing for the wharfage. The English consignee was generally very liberal to them in his charges, and held also the proceeds of the sales, till at length, in a few years, a tolerably respectable sum of money had accumulated in his hands. He saw the industrious habits of these men, and gave them appointments as attorneys, when vacancies arose. In this manner have most of the present attorneys of Jamaica created their fortunes. When they become attorneys, the legitimate profits are enormous for those even who do their duties correctly, but, for those who do not, the sums of money which may be realized exceed probability. It was reported of one attorney, who was also a receiver for various estates in Chancery, that he adopted the following course with respect to the purchase of cattle; a great source of profit if dexterously conducted. He managed several estates, otherwise he could not have effected his purpose. It was said that he had purchased a quantity of Spanish cattle, which are always very cheap, say worth £5 each, when landed extremely lean from the importing ships. He placed them for a short time on good grass of his own, till they appeared to have got a little into condition, and then sold them to the estate A, which required store cattle. He obtained an advanced price for them; and as he made out the bill of sales in the name of some confidential servant, he received also a commission, besides the price, from the purchasing estate in remuneration for the purchase. After some time, perhaps a year, such of these cattle as were fit to sell for working cattle, were sold by him from the estate A to the estate B, also under his management, and he received his commissions from both; for the sale from one party, and for the purchase from another. After being worked for a couple of

years, these cattle were again resold by the estate B to the estate C, also under his charge, for fattening; and again a per centage on each side was paid him. Lastly, they were sold by the estate C to the butcher, and the attorney again drew the commission from that estate for the sale. This narrative may be somewhat exaggerated, but it has been frequently mentioned that such a practice did prevail in a greater or less degree. That there are, however, many attorneys, nay, a great majority, quite incapable of such conduct, is most true.

It may be worth while to mention another mode by which a certain class of English proprietors in Jamaica are egregiously cheated. It will hardly be credited, but it is, nevertheless, most certain, that several wharfingers at Kingston charge such proprietors as ship or land produce in that city a certain per centage, and then return to the merchant, shipper, or consignee, 75 per cent. of that charge, as his profit on the transactions. In short, the principal cause of the depreciation of West India property is to be comprised in one word, *absenteeism*. The climate, it is to be feared, will prevent this evil from being remedied; but it may be modified to a considerable degree, by confining the whole payment of the attorneys to a per centage on the net profits; by giving certain money allowances instead of food to the white subordinate servants; and by paying the negroes in a simular manner, in lieu of allowing them clothes, herrings, corn, and other things, all of which are wasted in an incredible manner.

CONCLUSION.

UNDER Lord Sligo's government of the colony, the line of conduct which he adopted towards the negroes certainly gained him their confidence; but at the same time it placed an invincible barrier between him and the planters. They at first received him with welcome, but they soon lost all confidence in him. To this was attributed his want of success in his endeavours to promote the passing, by the local legislature, of any of those measures which were so much wanted to prepare for coming events in 1840. His relinquishment, therefore, of the government was looked upon auspiciously, as it was anticipated that on the arrival of his successor, Sir Lionel Smith, who had more experience in governments, who had conducted so favourably the progress of emancipation in Barbadoes, and who had left that island so universally regretted, a greater confidence would be felt in the intentions of the local government. Sir Lionel himself, in his speech opening his first session, thus alludes to the position in which he found the island on assuming the government. "It is my anxious wish, therefore, that all animosities will cease, and that the seat of government will no longer be considered as a magazine of combustibles hostile to your interests, because the times may have dictated a course of policy effecting many necessary changes in your social system. Gentlemen, the country is represented to me as full of grievances, many I acknowledge seem of great difficulty." Nothing could be more temperate or more conciliating than this speech; nothing apparently more likely to gain the confidence of the legislature. Sir Lionel subsequently continued to act in the same prudent manner; yet what has been the result? He undoubtedly enjoys the

entire confidence of the planters, as far as expressions go; but have they passed, since his administration commenced, one solitary measure of all those which were recommended in the report of Mr. Buxton's committee? Lord Sligo and Sir Lionel Smith, each pursuing a decidedly different line of policy, have equally failed in effecting the passing of a single necessary enactment. Why, therefore, does the English administration delay a moment in appealing to the Imperial Parliament to legislate in such a manner, as shall enforce the complete fulfilment of the Abolition Law? The country which, with but one opinion, carried that law, would not surely hesitate to make those subordinate arrangements, which the omissions in the original Act have rendered necessary. The anti-slavery party, who find that the law has been much abused, and that the humane intentions of the original promoters of this most benevolent measure have been defeated, cry out loudly for an immediate abolition of the apprenticeship. But it appears doubtful, if such a measure would in the end be advantageous to the negro. The success of immediate and total abolition in Antigua, has been quoted as an argument in its favour; but the cases are not parallel. Jamaica has thousands of acres of waste and unclaimed land, and every acre which is not actually kept in tillage, is soon covered with bush impenetrable to all except the negroes. Into these places, where food can be procured at the least possible expenditure of labour; where, as has been proved before the House of Lords, a man can provide a year's food for a reasonable family by twelve days labour at his plantain ground,—where from the heat of the climate no more clothes are necessary than what are required by decency—where the quantity of unclaimed wood, and of the thatch palm, enables the negro to erect a comfortable hut in a few hours,—into these places will he probably retire, and there lazily pass his life, never

issuing from his recess until the want of some luxuries may lead him to bring produce to market, or perhaps if the market is overstocked, may induce him to labour for a few hours. Under these circumstances no continued labour is to be expected from him. How is the case in Antigua? It is a small island, every acre of which is well known; in which it is said that there exists not a single spring of fresh water, and where the provisions are all imported; where there is no resource but work, with the produce of which the negro goes to market and purchases his daily bread. There the immediate emancipation was a wise measure; but in Jamaica more time is required to prepare the minds of the negroes for freedom. If the colonists have not availed themselves of the opportunity, if they have not made use of the interval to get rid of the feelings engendered among the blacks by a long course of oppressions during the continuance of slavery, it is their own fault —they will suffer for it. It is to be hoped, however, that they will employ the remaining time better, and that nobler feelings will succeed those now existing.

Could there be anything more injudicious, than the attempt of the planters to establish one common scale of labour throughout the colony? In the first place the attempt was decidedly illegal, being in direct opposition to the 51st clause of the Jamaica Abolition Act, and the 16th clause of the Imperial Act for the same object, which distinctly prohibits any task-work whatever, excepting such as shall have been agreed to by a majority of the apprentices, and then sanctioned by a special magistrate. There was a meeting at the King's House to discuss the best means of carrying this intention into effect; one very sensible and able attorney, Mr. George Gordon, to his honour, opposed the measure, as one of an unconstitutional nature; he argued that there could not with propriety be

any such interference with the black man; and that every attorney, who adopted a proper line of conduct towards his apprentice, could get from him as much labour as was requisite. This noble and truly constitutional language completely upset the scheme, which, besides being illegal, was quite impracticable. A system or scale of labour, which might be most appropriate in one parish, would be perfectly unfit for another, differently circumstanced. Let the attorneys follow Mr. Gordon's advice, and they will require no illegal compulsory labour scales. Mr. Beaumont says, in examination, No. 4470, "That all the planters conspired against the working of the Abolition Act, until they found that they could make it, by ingenious devices, very nearly approach to slavery, and that then they withdrew their opposition to it."

This, it is to be hoped, is an exaggeration; but, in any case, let a line of conduct be forced on them, which will, in spite of their folly, produce the desired effect: it can easily be done; but the remedy must come from England. In truth, there is no justice in the general local institutions of Jamaica; because there is no public opinion to which an appeal can be made. Slavery has divided society into two classes; to one it has given power, but to the other it has not extended protection. One of these classes is above public opinion, and the other is below it; neither are, therefore, under its influence; and it is much to be feared, that owing to the want of sympathy between them, to the want of dependence and mutual confidence, to the poorer class being able to provide for the necessities of life without any application to the higher, there never will be in Jamaica, or in any other slave colony, a community of feeling on which public opinion can operate beneficially. There now exists indeed something so termed; but it does not deserve the name; it makes the timid man afraid

to act rightly, and confirms the designing intriguer in his schemes. It is to be hoped that this complete separation may melt away, and that some kind of approximation of the two classes may arise. The prospects otherwise may be awful—great indeed is the blindness which does not see this, great indeed is the fatuity which does not provide against it. What must be the feelings of the negro towards those who show such an utter want of confidence in him, that all their public acts are of a stringent nature? That they deprive him of the only trade which he is able with his limited means to engage in,—namely, with the next island, St. Domingo, lest he should there learn too much of the common right of all people in a representative state—namely, a share in the representation. If that scheme has not succeeded, it is not to the white inhabitants of Jamaica that the negroes owe its failure, but to the British government. Can the negro endure to have himself cursed, and called '*a damned black rascal*' on all occasions? Can he like to have all sense of morality and decency outraged in the persons of his wife and daughters? Let the inhabitants of Jamaica look to these things in time, and remedy the evil before it is too late. Let them recollect, that unless they regain the confidence of those from whom alone free labour can be obtained, the year 1840 will be the unprofitable commencement of a series of still more unprofitable years; that if the negroes do not labour freely in 1840, it will be difficult with their small necessities, to induce them to do so at any future period. Let them support, and not on every occasion vilify, their religious teachers, to whom they already owe more of the good conduct of the negroes than they are willing to acknowledge. Let them not endeavour to diminish the natural and legitimate influence of those excellent men, the missionaries, whose assistance they may perhaps one day themselves

require. Let them not imagine, because the skin of the negroes is darker than their own, that they have not the feelings of men. Let them not suppose that, when these despised blacks are free, and when they gain the additional knowledge which the change in their social condition will inevitably impart, they will calmly submit as they have hitherto done. It would be much better for the Jamaica proprietor to give liberally now, whilst he has it in his power to give, than wait for a reaction, which, if once it takes place, will be terrible in its consequences. He would not hesitate, if he was aware of the effect of a little kindness on the mind of the poor contemned black. Little does he know how deep every act of considerate regard and kindly feeling sinks into his heart, or how it carries with it gratitude and devotion.

Let him not say, "I thank God that I am not a publican and sinner as this man is," but let him pour wine and oil into his wounds, and make him his friend.

APPENDIX.

(A)

A FEW MEMORANDA RESPECTING JAMAICA, THE RESULT OF THE GOVERNOR'S OBSERVATION, COMBINED WITH THE BEST INFORMATION THAT COULD BE PROCURED.

1. The quality of the sugar made this year is *bonâ fide* far superior to what has been heretofore made by night work, on the majority of estates in this Island.

2. There has been by far less stock lost in this year's crop than in that of the preceding years, and in many places the produce has been taken off by a smaller number.

3. The stock are, generally speaking, in much better condition this year than they were at the close of any former year's crop, when they were so weak, that many of them died in consequence.

4. The apprentices generally are evidently becoming more reconciled to the system, and work cheerfully for money-hire, both night and day, and they are daily becoming better behaved.

5. They may be expected still farther to improve, as soon as they begin to feel the natural impetus of education and religion, and as they get rid of the system of deceit which slavery occasioned, in order to save them from oppression.

6. Several estates will exceed the present crop in the next year, and a majority will equal it.

7. When this is not the case, it can be traced to sufficient causes independent of the loss of labour, which of course must have considerable effect, when it is recollected that on many estates the slaves were compelled not only to work day and night as long as nature would allow of it, and in such manner as their bodily endurance would permit, for the six week days, but were often compelled to pot sugar on the Sunday.

8. A manifest supineness has been exhibited on several plantations, which is proved by the fact, that the next year's crops are often estimated at much more than the present. I know of several individual instances of persons declining to put in plant canes last year, in consequence of the certainty which they felt, by anticipation, that the crop would not be taken off at all.

9. The returns I send home herewith will show that the preparations for the next year's crop have not been so entirely neglected as has been asserted.

10. The New System has furnished a most admirable excuse for any failures and neglects which may have taken place, and which will not, therefore, be attributed to their real cause.

11. My conviction is, that in many instances the opinions of individuals are much more favourable to future prospects than they choose to allow; and I offer, in proof of it, the reluctance which has been shown, in but too many instances, to permit me to get any information upon the subject.

12. The overseers in many, I will fearlessly say very many, instances, have not given hearty co-operation to the new law, feeling themselves shorn of all their beams by its operation.

13. Many of the attorneys and managers have been so very loud in their assertions of the failure of the system, that they are now unwilling to admit the errors of their opinions. The first prophecy was, blood and destruction on the 1st of August; in this they were wrong. The second, that this scene would take place at Christmas, as it had not taken place in August; in this they were wrong. The third, that the apprentices would not work for wages; in this they were wrong, as I know of no instance where the usual wages were offered and where they were refused. The fourth was, that this crop could not be taken off; in this they were wrong, as it has been taken off in many places much earlier than usual; and if protracted in others, it has been as much from the weather, and the refusal to give wages in many instances, as from any other cause affecting the success of the new system.

14. Having been driven from all these points, they have now created for themselves a fresh object of terror, namely, the next year's crop. On this point I have had some doubts myself all along, and therefore send the information I have received, in order that judgment may be given

by others. I confess freely, that the report is, on the whole, much more favourable than I ever expected.

15. The manufacture and cultivation of sugar have been conducted on the most antiquated systems possible, and received the least possible assistance from the modern improvements in machinery. The plough is hardly ever used; where adopted this year from necessity, it has answered completely. The cattle mills, which are so general, must be abandoned, as they work so very slowly, that they cannot meet the diminished hours of labour of the negroes.

16. The ginger, arrow-root, and coffee plantations, are as flourishing as ever they were known to be.

17. The negroes will improve, because they have done so since the 1st of August, gradually but certainly, in all parts where severity has not been practised.

They have had very little encouragement from many of the managers.

In the whole of the early part, the number of special magistrates was quite insufficient; this affects them more than might be at first imagined, as they show unlimited confidence in those (the great majority, I am proud to say) who treat them with true kindness. They passed their holidays at Christmas in an unusually orderly manner, there was, literally speaking, I verily believe, not twenty absentees from their labour on the 29th December; and they worked on New Year's day without a murmur.

There has been as yet no increase of religious instruction or education, and very little of good example.

The crop this year has been taken off without a single instance of resistance, and of a superior quality to that heretofore made.

There has been less stock lost this year than usual.

They have in most instances worked cheerfully, day and night (when allowed to do so by night), for hire, on five days of the week.

They now dig cane holes in many parts of the Island at one half-penny per hole, earning a dollar a day, digging 160 often in a day, when 70 to 80 were their task during slavery.

Several planters reluctantly confess that more work has been done this year than the last, and many objections have been made to any comparison between the work of these two years.

The amount of this year's crop is not therefore to be attributed to the exertions of the last year of slavery, as has been asserted. Every one confesses that things are going on, though not at all well, much better than they expected.

There has been a singular want of uniformity in the administration of the law, which was not, and could not, be got over till after some months' experience of it.

There has been a great variance in their allowances, indulgences, and rates of payment.

Many have not been paid at all, but have been persuaded by the managers to give additional labour for their old allowances.

The planters looked upon the special justices with great jealousy, and struggled at first in many places to maintain as many of their old rights as possible.

Many planters have openly and loudly expressed their conviction that the plan must be a perfect failure.

Many of the managers, though, thank God, not all, still maintain their former habits towards them, as far as the law allows them.

There has been little time for the apprentices to reconcile their feelings to those whom they deem their former oppressors.

When all these things are recollected, and it is seen that, under all these disadvantages, they have behaved so well, and shown such improvement, may it not naturally be inferred, that they are in a state of progressive amendment?

Thus much of the conduct of the apprentices. What, now, has been that of the whites? Of some of the managers I cannot speak too highly; but they have reaped the fruit of their discretion, in the remarkable success which has attended their efforts. A reference to the reports will shew what success has attended the efforts of some; and how deplorable is the state of some of the properties under the management of others, though enjoying precisely similar advantages.

On the whole, I come to the conclusion, that the perfect success of the new system, during the continuance of the apprenticeship, depends entirely on the conduct of the white people, and that, if it fails, on them will rest the entire blame.

(B)

EXTRACT OF THE SPEECH OF THE GOVERNOR, ON THE PROROGATION OF THE HOUSE OF ASSEMBLY, ON THE 3D FEBRUARY 1836.

"Gentlemen of the Council,

Mr. Speaker and Gentlemen of the Assembly:—The very extraordinary nature of the message I have received from the House of Assembly, compels me to point out to the Legislature of Jamaica, the position in which the conduct of one of its branches has placed the colony. To that branch, therefore, must I more particularly address myself, while I review its proceedings during the present session; while I point out what disposition it has evinced to meet the wishes of the mother-country, after the unparalleled sacrifices that country has lately made in its favour; and while I recount the measures which have been recommended by me, with the fate which has attended those recommendations.

The two messages I have recently sent down on the subject of the Police Bill, and the Act in Aid, have placed my views of the manner in which those two measures have been treated in the House of Assembly in too clear a light to require more than a very few remarks.

I pressed on you the establishment of more courts of assize, so strongly recommended by the presentment of the Grand Jury at the late Supreme Court:—you took no notice of it. A revision of the laws affecting the discipline of gaols and other places of confinement, was recommended to you. You were reminded that the infliction of corporal punishment had been deputed to the supervisors and managers of such establishments, a class to which the constitution does not confide those magisterial powers, which have been placed by you in their hands; all those subjects have remained unnoticed.

The whipping of females, you were informed by me, officially, was in practice, and I called upon you to make enactments to put an end to conduct so repugnant to humanity, and so contrary to law: so far from passing an act to prevent the recurrence of such cruelty, you have in no way expressed your disapprobation of it. You have not

even denied the truth of my assertion, and therefore must have credited it; notwithstanding, you have taken no steps to put an end to the practice.

I communicated to you my opinion, and that of the Secretary of State, of the injustice of cutting off the hair of females in the houses of correction, previous to trial, and with no judicial sentence to authorise it; you paid no attention to this subject.

I informed the House, that, in the opinion of the British government, the taxation imposed by the local authorities, on the property of apprentices, was quite illegal, and that it was incompatible with the spirit of the British Constitution, that any body which is unrepresented, should be subject to taxation:—you totally disregarded this suggestion. I sent you down no less than four messages on the subject of an extended system of negro education; I recommended to you the establishment of a plan, even without a vote in support of it, in order that the British Government might have some grounds to go upon; as no measure on the subject has emanated from the House, can I do otherwise than conclude that you are indifferent to it? I informed you that £25,000 sterling had been voted by England for the support of any just or expedient system of education in the colonies, with the prospect of still farther assistance being afforded,—but you have taken no steps to make it available.

I transmitted to you a dispatch from the Secretary of State, recommending the repeal of the 23rd Canon, with a view to increase the means of religious instruction in the colony: such has been your disregard to this most desirable object, that you have not attended to the recommendation.

I recommended the introduction of an Emigration Bill: I see by the Minutes of the Council, that you introduced into it a clause, which obviously affects one of the most undeniable rights of the Crown, the possession of the soil, until granted away by it.

I pointed out to you the injury done to the poorer classes of claimants for compensation, by schemes of interested persons, and sent to you a dispatch of the Secretary of State, suggesting a mode of relief:—you have neglected to consider the matter for the purpose of providing a remedy for the injury sustained by your constituents.

I communicated to you the circumstances, owing to your own decision, relative to the Police Bill, under which I was with much pain compelled to call on you to resume that

solemn and long-established compact, to provide for the subsistence of your garrison, a claim which has not, owing to the generosity of the British Parliament, been insisted on for some time: you have taken no notice of it. Besides these measures, on which no enactments have become law, there are many of much importance to the country, which are either before you for amendment, or laying on the table of the Council for their consideration; among these may be named the Domestic Animal Bill, and that for the Relief of Insolvent Debtors,—respecting which, a conference, I find, has been demanded by the Council, in order that the principles of it may be discussed; also those for Offences against the Person, Masters in Chancery, Gunpowder and Fire-arms, Savings Banks, and others, which must drop to the ground for a want of co-operation, and time to consider them: thus, I fear that many most useful Bills will be lost for a certain time,—a matter much to be regretted."

(C)

CRIMINAL INFORMATION AGAINST WHITEMAN.

"In a matter of criminal information *versus* Whiteman, on motion of Mr. Attorney General, and on reading the affidavits of Jane Rentford, filed on the instant, and of William Wemyss Anderson, filed on the 14th instant, it is ordered that a criminal information be filed against John Whiteman, of the parish of St. Andrew, unless cause be shewn to the contrary by the first day of next grand court.

The following are the Affidavits on which were grounded the motion which resulted in the above order nisi:—

"*Affidavit of Jane Rentford, an apprentice belonging to Mrs. Starks of Halfway Tree, in St. Andrew's, and now working out on hire at Mr. Fraser's, Tailor, Harbour Street, Kingston—*

"States—That she was committed to the house of correction, otherwise called the workhouse, at the Halfway Tree aforesaid, some time before last Christmas, for

not paying three dollars alleged to be due to her said mistress for wages. The sentence was pronounced by Mr. Lloyd, the special justice; and, as she understood its purport, her imprisonment was ordered for one week only. But she was detained during a period of three weeks in the said workhouse. During that time she was frequently worked on the treadmill, and also out of doors, chained to another girl. While working on the treadmill, *she was frequently struck* by one of the drivers called WADDELL. One day *being struck by the said Waddell while on the mill, she fell therefrom to the ground*, and while lying there, *Mr. John Whiteman*, the overseer, or other superintendant of the said workhouse, took the cat out of the driver's hand, *and struck her across the shoulders*, and thereby cut her so severely that blood was brought; he then *kicked* and made her go on the mill again. *She was also struck* during the said period by the other driver, *Edward Phillips*, while working with the gang in the field near 'Molynes.'

"That during her imprisonment in the workhouse, CHAINS were upon her *day and night*, and the only times they were taken off were, whilst she was with the people on the treadmill.

"That the *marks of the said flogging are still on her shoulders.*"

"*Affidavit of William Wemys Anderson,* of the city and parish of Kingston, Attorney-at-law.*—

"States—That a certain bill of indictment, 'Rex *versus* Whiteman,' for an assault committed by one John Whiteman, of the parish of St. Andrew, on Jane Rentford, an apprentice, was presented to the grand jury of the county of Surry, at the last Surry assizes, and by the said grand jury ignored.

"That the subject matter intended to have been tried by the said indictment is contained in an affidavit of Jane Rentford, filed in the grand court now sitting, on which has been made a motion to the said court, for a criminal information against the said John Whiteman."

"The confirmation absolute of the order nisi, is opposed on the following affidavits:—

* See papers on Slavery, 3rd part, No. 242; p. 38.

"*Affidavit of John Whiteman, of the parish of St. Andrew, gentleman—*

"States—That in the month of October, 1835, and whilst this deponent was employed in the St. Andrew's house of correction as an overseer or superintendant, an apprentice named Jane Rentford was *remanded* to that institution by Samuel Lloyd, Esquire, special justice for the said parish, until the following week, to afford her an opportunity of paying wages for the time she had been absent from the service of her mistress; and not having done so on Tuesday in the following week, the said apprentice was brought before and tried by the said Samuel Lloyd; and by him sentenced to be imprisoned in the house of correction for two weeks, to be worked in the penal gang, and occasionally on the treadmill.

"That when the said Jane Rentford was first put on the treadmill to undergo the sentence of the special magistrate, she immediately threw herself from off the mill, and seized the driver, and took the whip away from him, and, at the same time, made use of very obscene language, and indecently exposed her person,* and otherwise behaved in a very violent and disorderly manner; which induced deponent to interfere, and take the whip out of her hand, and return it to the driver: but deponent most positively denies that he either then, or at any other time during the imprisonment of the said Jane Rentford, ever struck her, or in any other manner ill-treated her; nor was she ever punished in any other manner than according to the said sentence, and the directions of the magistrate, to the best of deponent's knowledge and belief.

"That he sometime since left the said situation of overseer of the house of correction, for the purpose of taking another situation at £70. per annum, in consequence of being a married man, and his wife not keeping her health by residing in that institution, having, as he verily believes, conducted himself to the entire satisfaction of his employers. And deponent being dependent upon his exertions to obtain a livelihood for himself and family, humbly hopes this honourable court will declare his innocence, by being pleased to discharge the said order nisi with his full costs incurred in this matter."

* This female was at the time labouring under periodical sickness, and acted in this manner, in the extremity of her suffering, with an hope of avoiding that part of her punishment.

" *Affidavit of Robert Waddell, James Martins, Edward Phillips,*† *and John McDonald,* CONVICTS, *in the St. Andrew's Workhouse—*

" States—(deponents severally say) That they recollect when an apprentice, named Jane Rentford, to Mrs. Dorothy R. Starks, was committed to the said house of correction by Special Justice Lloyd; deponent, Robert Waddell, being at that time employed as driver to the treadmill.

" (Deponent Waddell says) That the conduct of the said Jane Rentford was very unruly, violent, and indecent, and when placed on the mill she threw herself off, several times, and on one occasion she took the cat out of deponent James Martin's hand, when John Whiteman, the overseer, took it away and returned it to deponent.

" (Deponents severally say) That they never, on any occasion, saw the said John Whiteman strike or beat the said Jane Rentford or any other prisoner in the said institution, with the cat or otherwise; but, on the contrary, deponents were perfectly satisfied with the conduct of the said John Whiteman, which was kind and attentive to the prisoners in general, although strict."

(These deponents cannot read nor write. It is certified that the affidavit was read and explained to them.)

" *Affidavit of William Robertson, of the parish of St. Andrew, Esquire—*

" States—That he resided in the immediate vicinity of the house of correction the whole period that John Whiteman was the overseer; and deponent was in the habit of visiting that institution frequently, and considered both the said John Whiteman and his wife very kind to the inmates: and he appeared to deponent to be the only person that paid attention to his duty, without receiving that support he was justly entitled to from his superiors attached thereto.

" That he has known that institution under the denomination of a workhouse, and as a house of correction, having been president of it under both those names, and never saw it better conducted than by the said John Whiteman.

" That from his sober and correct conduct, the said John Whiteman obtained a superior situation."

† This man, Phillips, was convicted at last Surry Assizes of flogging a female in the same workhouse, because she would not prostitute herself to him. He held office as one of the drivers of the establishment. He was sentenced to receive 39 lashes.

"*Affidavit of Dorothy R. Starks of the parish of St. Andrew, Widow—*

"States—That Jane Rentford, an apprentice to the deponent, is a notorious thief and liar, and a most violent and worthless character; and is so bad, that deponent could not keep her in the house with her as a servant.

"That Jane Rentford hath been in her possession for about twelve years, and deponent would not believe any statement made by her, even upon oath."

Remarks of the Court when motion made.

*The Hon. Mr. Mais.**—"This is an infamous proceeding. I have not seen the affidavits. It is an application to be disposed of by the discretion of the court."

Attorney-General.—"The court is to exercise such a discretion as a grand jury would in the evidence. Therefore the denials of the flogging in the affidavits should not be conclusive. I have serious doubts as to the legality of chaining women in workhouses; and I want the court to say whether it be legal or illegal to do so. If it be not legal, then the application must be granted. It embraces three matters: chaining, flogging, and causing to be flogged. —I want a decision on the right to chain."

Chief Justice.—"We will give you a decision on that point if we must do so, but not otherwise; we will, after a further consideration of the case give our opinion."

Opinion of the Court refusing the application.

The Chief Justice.—"This is an application against a subordinate officer of the St. Andrew's house of correction. Its disposal must be regulated by the discretion of the court in a consideration of all the circumstances. The affidavit comprehends chaining and corporal punishment; but the only real ground of complaint is the latter. We are not called upon to pronounce as to the chaining. There are four affidavits denying the principal charge; the preponderance of evidence is therefore in favour of Whiteman, and we must deny the application."

* Mr. Mais is Custos of St. Andrews, in which parish this offence was committed, as well as one of the presiding judges on the Bench.

(D)

No. 1.

	Currency at 12s. sterling to the £1 currency.			Sterling.		
House rent, without furniture, per annum - - - -	100	0	0	60	0	0
Three horses' forage and keep, at 76*l.* 0*s.* 10*d.* per annum each horse, as allowed to County Inspectors of Police - - - -	228	2	6	136	7	6
One waiting boy, at 13*s.* 4*d.* per week per annum is - - -	34	13	4	20	16	0
One groom, at 13*s.* 4*d.* ditto ditto -	34	13	4	20	16	0
A cook and house cleaner, at 13*s.* 4*d.* ditto ditto - - -	34	13	4	20	16	0
Doctor's bill, average per annum -	50	0	0	30	0	0
Horse-shoeing, per contract, 5*l.* 6*s.* 8*d.* each, per annum - -	16	0	0	9	12	0
Saddlery, Portmanteaus, and other indispensible necessaries for travelling, per annum - -	16	0	0	9	12	0
Stationery, and printed forms of summonses, warrants, &c. - -	20	0	0	12	0	0
Washing at 5*s.* per dozen, including table and bed linen, and allowing for the frequent changes caused by wetting and the heat of the climate, 5 dozen per week, is 25*s.* per week per annum - - -	65	0	0	39	0	0
Taxation on house, horses, and wheels	30	0	0	18	0	0
Loss sustained by being paid by the Commissary the stipend at 4*s.* 4*d.* the dollar, which can only be passed in Jamaica at 4*s.* being an actual loss of 1-12th. - -	57	15	0	34	13	0
	£686	17	6	411	12	6

No. 2. Necessaries of Life, &c. &c.

	Currency at 12s. sterling to the £1 currency.			Sterling.		
Clothing, including uniform coats -	50	0	0	30	0	0
Food, Fuel, Candles, &c. at 20s., or 12s. sterling per diem - -	365	0	0	219	0	0
Wine and other liquors, at 5s. per diem - - - -	91	5	0	54	15	0
	£1,193	2	6	706	7	6

No. 3. Contingent Expenses.

Rent on outlay of furniture, risk on loss of horses, and tavern expenses on compulsory summonses to attend Committees of the House of Assembly - - -	80	0	0	48	0	0
	£1,273	2	6	754	7	6
Amount of stipend -	750	0	0	450	0	0
Annual surplus of debt	523	2	6	304	7	6

(E)

" *Peace-Office, Spanish Town. Before Richard Hill and G. O. Higgins, Esqrs. Special Justices.*

Monday, Jan. 9, 1837.

" *Hon. T. J. Bernard,* master, v. *Willam Connage,* apprentice, for desertion.

" Hon. Thomas James Bernard, sworn—stated, that William Connage was residing on the pen, called Bernard Lodge, and absented himself sometime in the month of June or July last; he was apprehended within the last three weeks, and had been absent from his work, to the best of witness's belief, during that period of time; Connage was a slave in the possession of witness previous to the 1st of August 1834, and remained, after that period, as an

apprentice labourer until the time of his desertion before mentioned.

" Mr. Bernard, in concluding this testimony, submitted that he had proved his case.

" Mr. Harvey, solicitor, on behalf of the accused, submitted, that no case of apprenticeship had been proved. If the complainant claim a right in the services of the accused, under the law for the abolition of slavery, the proof of *due registration*, which is the condition of apprenticeship, ought to have been in evidence.

" Mr. Bernard replied, that evidence of possession, as in a question of land, was title of apprenticeship. If the accused claimed immunity from apprenticeship, he must rest on the strength of his own, not on the weakness of his adversary's, title.

" Mr. Bernard was permitted to amend his case, by inserting, after ' Wm. Connage was,' the words, ' an apprenticed labourer in witness's possession.'

" Mr. Harvey urged, that although evidence of possession was presumptive title during slavery, yet, now, that slavery was abolished, there was no analogy between the right of freedom, and a question of title; that, therefore, the complainant's assertion of apprenticeship, ought not to to be received as evidence of a fact, which could only be explained by circumstances, to which the Justices would apply the law. The question, he submitted, involved one of the most sacred principles of freedom, the right of property in a man's own services, which should always be presumed as strictly personal in himself, until a better adverse right were proved. By the abolition law, the emancipated slave had been invested with all the immunities of freedom, and was entitled as his master to the benefits and protection of the common law, *subject only to certain obligations of servitude, and to the restrictions for enforcing those obligations, the condition of which, was due registration.* Implication of freedom was the rule; apprenticeship the exception, which must be strictly shewn by proof, to bring the case within the operation of the law.

" The Justices thought, that a presumptive case of apprenticeship had been proved. The accused might give evidence in his defence.

" Question by Mr. Harvey, on behalf of the accused.

" Was the apprentice, William Connage, registered as a slave in the general registration of 1817?

" Mr. Bernard submitted, that he ought not to answer this question. Urging, as a reason, that the Special Justice has no right to enquire if the apprentice was registered in 1817.

" Mr. Higgins considered, that the question ought not to be put with respect to the year 1817.

" Mr. Hill considered, that the question was essential to assertain, whether or not the Special Justices have jurisdiction, *due registration* being the very condition of apprenticeship.

" The question was not put.

" Mr. Harvey, on behalf of the defendant, denied the jurisdiction of the court, unless registration was shewn.

" Mr. Bernard submitted, that the evidence which he had given, proved the defendant an apprenticed labourer, and called for the judgment of the Justices.

" Mr. Higgins, on Mr. Harvey's denial of the jurisdiction of the court, considered, that their being a *distinct declaration on oath*, that the party was an apprenticed labourer, and was then in a state of desertion, the court had jurisdiction.

" Mr. Hill, in reference to the same denial of the jurisdiction of the court, considered, that as there was a distinct declaration on oath, that the accused was an apprenticed labourer; that as he was receiving and taking orders for a certain period of time without question; that then, without proof that there has been no due registration, the court must be held to have jurisdiction.

" By Mr. Harvey.—Has Wm. Connage been included in the registry of 1832?

" Mr. Bernard declined to answer this question, because, first, the Special Justices had no right to enquire if the apprentice was registered in 1832, and, secondly, because the Magistrates had already decided that they have jurisdiction.

" Mr. Hill, in explanation, stated, that his decision was made conditionally; that is, that without proof that there had been *no due registration*, the court must be held to have jurisdiction; but, of course, *with* proof, that there has been *no due registration* within the meaning and intent of the law, the court would be held to have no jurisdiction.

" Mr. Harvey left this point to the court.

" The Justices thought, that Mr. Bernard having sworn to the facts of apprenticeship and desertion, he ought not

to be compelled to give evidence against himself, and tending to invalidate his right.

" Mr. Harvey tendered evidence, that the accused was not duly registered under the abolition law.

" James Melard, sworn.

" Did you make the search of the registration of one Wm. Connage in the registry-office?"

" Mr. Bernard objected to that evidence being received, because the Special Magistrates were not authorised or empowered to take evidence as to the registration, or non-registration of an apprentice, formerly a slave. He contended, that the question of due registration, and the effect thereof, on the condition of the apprentice, could only be tried and determined in the Superior Courts, and, farther, that the Magistrates have already decided, that they had jurisdiction in this case, between master and apprentice, that they could not afterwards receive evidence, except touching the guilt or innocence of the party accused.

" Mr. Harvey, on behalf of the accused, insisted on his right to put the question, because that, by the principles of common law, which were as much the right of apprentice as of master, all persons brought to trial for an offence, must be tried according to the rules of the law, and be held innocent until found guilty. The allegation of a person claiming the services of another, was no evidence of the claimant's right against a denial of that right. The complainant, after giving evidence for himself, having refused to answer the questions hereinbefore stated, on behalf of the accused, the latter was entitled to bring forward proof, to shew that he is not an apprentice, and, therefore, not a deserter.

" Mr. Higgins considered, that acting on the opinion of the law-officers of the Crown of England, that when there is *no due registration*, there is *no apprenticeship* under the abolition act, and that, when there is no proof of due registration by the complainant, and when he refuses to afford that proof, the Magistrates are bound to hear the defendant in the negative, to wit, that there has been no due registration.

" Mr. Hill concurred.

" Mr. Harvey's question to Mr. Melhard repeated.—Did you search for the registration of Connage?

" I did.

" State the result of the search, and in whose names did you search?

"I searched in Mr. Wm. Hewitt's name, and in Mr. Bernard's, and in Mr. Stewart's, as executors; and in Mr. Bernard's in his own right, and in Mr. Stewart's in his own right, and in the right of their wives. I searched from 1817 to 1832, but could not find the name of Wm. Connage.

"By the Court.—Were you sufficiently acquainted with all the interests of the family you have named, to enable you to say, whether all the search possible has been made, to prove that Wm. Connage is not duly registered?

"I am only acquainted with the interests of the family, as far as they relate to the parishes of St. Catherine and Clarendon. I cannot say, from the searches I have made, that Wm. Connage is not duly registered.

"Did you look in the registrations for Clarendon, as well as St. Catherine?

"I did, from 1817 to 1832, and in neither of these parishes, under the names mentioned, did I find the registration of Wm. Connage.

"Mr. Harvey submitted, that having proved his negative, *no registration* in the names of the complainant or his family, he should not be called to make a voyage round all the names and registries in the island. The accused was entitled to proper information from the complainant himself, of the nature of his right. He had shewn a reasonable presumption of non-registration. If the contrary were alleged, the affirmative should now rest on the complainant.

"The Justices considered, that inasmuch as there was only reasonable presumption, and not decisive proof of Wm. Connage not being duly registered, they are bound to consider, that on the evidence that he was receiving and taking orders for a certain period as an apprentice labourer, without question, that he is still bound to serve.

"On this decision, Mr. Bernard did not press for punishment for the desertion, but that the accused should be admonished, and ordered to return to his duty at Bernard Lodge."

The following observations on this case, which appeared in the same paper (the "*Telegraph*"), being quite worthy of notice, are here inserted.

"Friday, January 13, 1837.

"The case of Bernard *v.* Connage, reported in this day's impression, involving, as it does, the great general princi-

ple of freedom, is one which will be found of very deep importance to society at large in the colony. This was a case tried before the Special Justices, with the view of ascertaining how far a non-registered apprentice might deny the jurisdiction of a Special Justice's Court, to compel his service as an apprentice, and how far the Special Justice might *affirm* the jurisdiction of his Court, for the purpose of *taking evidence* to establish the fact of non-registration. To understand the peculiarities of this issue, it seems necessary to go back to the Registry Bill. That law enacted, *first*, that in 1817, a registration of all the then slaves in the colony should be taken and recorded. *Secondly*, that in every three years after, this original registry should be referred to, for the original *names and numbers*, taking up the aggregate contained in the original, while the future increase and decrease of the persons on that record, were to be triennially registered: and in a new record, all the changes of location and proprietorship of the *existing* slaves, were to be shewn by a *de novo* registration. *Thirdly*, that in case of any omission to comply with the provisions of the act, a certain period of indulgence should be allowed, viz., eighteen months, during which, the party might, on petition to the Governor, be admitted to register. *Fourthly*, that on the neglect to retrieve the error, by having recourse to this "*indulgence*," the party should be involved in the conclusion of having illegally imported slaves into the colony. *Fifthly*, that on information filed against him, he might extricate himself from this *conclusion*, by pleading that it was not an illegal importation, but an *error of omission*, or that it was, in other words, a case of non-registration. On this plea, judgment was to be taken, and a penalty of £100 entered up, on payment of which fine, the party, under direction of the Court, might be permitted to restore the return omitted to the registry, that is, be still allowed to record and hold the *persons therein included* as slaves.

"Now, the penalty was a remedy for the act of omission. Without this, the person omitted, if he were claimed as a slave after non-registration, was to be held as a slave illegally imported. If the penalty was not sued within the statutary period, that is, within one year after it was incurred, if sued by an informer; and within two years more, if sued by the Crown, its recovery was barred by the statute of limitations. But the Registry Bill, besides being a

penal law, was also a remedial law for the prevention of frauds: and statutes against frauds are to be liberally construed; the difference being this, that where the statute acts upon the *offender*, and inflicts a penalty, it is then to be taken *strictly*, but when the statute acts upon the *offence*, by setting aside the fraud, it is here to be *liberally* construed. By efflux of time the *offender* escaped payment of the *penalty*, but the character of the *offence* remained. This being plainly and intelligibly the law, we can arrive at no opinion of its influence on the question of apprenticeship, but that, *without due registration*, the party being concluded to be a person illegally held as a slave, he could not be found as an apprentice.

" According to the arguments illustrated in this case, a question of non-registration before the Special Justice, then, is simply this, that on *proof* of that fact, the magistrate holding special commission, and exercising jurisdiction between master and servant under the apprenticeship established by the abolition law, has no authority to compel service, seeing, that during the existence of slavery, the person was to be concluded to be *illegally held in slavery*, unless the *omission* had been established by the pleadings, or an information filed, and then there could have been no restoration to the Register, but on the penalty paid and judgment satisfied. A person *now* involved in the accusation of a non-registry case, unless he can shew this judgment and penalty paid, is for ever excluded from the benefits of the Register, and apprenticeship is one of those benefits. If omission in one registration could be allowed *at all*, that allowance could at any time cover a fraudulent importation. But, inasmuch as fraudulent importation was the evil to be guarded against, the preventative remedy never could be dispensed with, and hence the necessity of a rigid triennial registration.

" We offer our tribute of commendation on the very admirable spirit, by which this case has been brought on by Mr. Bernard: his sole object, we believe, being simply to try the question of right. We do think, however, that the decision of the Magistrates in compelling the servant to his proof of a negative, is at variance with the general principles evolved. If their position be law, that *due registration* is in the condition of apprenticeship; we should infer, that the proof of the affirmative rested on the master, as in the case of articles of agreement, or apprenticeship at

the common law: the only difference with regard to the apprenticeship of persons who were slaves, being this, that the test of slavery, which is 'due registration,' is requisite to the bringing the emancipated slave within the restrictive operation of the law. If a consequence of freedom be the proper understanding of one's rights and duties, a man cannot be lawfully controlled by another, without information on the nature and character of the dominant right. The registration of apprentices seems clearly analogous to the registration of vessels under the navigation laws, which declare confiscation the penalty of non-registration; and the non-production of the Register, presumptive evidence of piracy or illegal trading, which justifies her seizure, and condemnation at law."

(F)

Grand Court, Spanish Town. Tuesday, June 6, 1837.

Bayley v. Ewart.—"Mr. Justice Bernard delivered his reasons for dissenting from the judgment of the majority of the count, as follows:—

Mr. Justice Bernard.—"The plaintiff in this case seeks to recover his immediate discharge from the remainder of the term of apprenticeship, created by the acts for the abolition of slavery; and the fact upon which he rests his claims is, that, although returned by his former owner, and included among his slaves as required by the 57th Geo. III, chap. 15, commonly called the Registry Act, for the years 1817, 1820, 1823, 1826, and 1829; yet, inasmuch as he was not included in any return for 1832, he has not been duly registered in conformity with the laws in force in this island; that he therefore did not pass into apprenticeship, under the 1st clause of the 3rd and 4th William IV, c. 73, and did not incur the obligation imposed by that act, and that of consequence under the twelfth clause he becomes absolutely free.

"The points therefore to be decided are: 1st. Does the 3rd and 4th William IV, cap. 73, manumise at once and unconditionally persons *not duly registered in conformity with the laws of the several colonies;* and 2ndly. If it does

so, what constitutes a due registration under the Island Act, 57 Geo. III, cap. 15. As there is no difference of opinion on the first point, namely, that persons not duly registered as slaves in conformity with the acts in force in the respective colonies, become at once free and absolutely manumitted, I will proceed to state my reasons for differing from the majority of the court, in thinking, as I do, that the plaintiff has not been duly registered in conformity with the 57th Geo. III, cap. 15, and that therefore he is entitled to a verdict in the case.

"The counsel for the defendant mentioned the case of slaves at the Mauritius. That case does not at all bear upon the present. There were two points raised with regard to the Mauritius, and, in order to make them understood, it is necessary to show the difference between the law at the Mauritius, and the law here. The orders in council by which that island is governed, directed that there should be a registration every two years, at such times as the governor should by proclamation appoint. Their method of registration was, by giving in a list of names, and the registrar of slaves having inspected them, filed the registration. In 1832, the owners gave in the slaves, but Mr. Mylius, the registrar, not being satisfied with their accuracy, did not register them; of this fact, however, he never acquainted the owners, and it seems to have been held by their lordships, that the parties had complied with the ordinance and proclamation, and therefore ought not to be damnified. The other point was as to the slaves in 1834. The Abolition Bill having passed in 1833, the governor did not issue a proclamation appointing a time for registration in that year; their lordships could not, therefore, declare the people free, for want of due registration, because the governor's proclamation to appoint a time was part of the law under which the registration was to be made, and in want of it no registration could take place; so that no decision to which their lordships came on that question, can, in my opinion, prejudice this, or be considered in point.

"It is necessary, in the first instance, to notice the title of the act, which is usually termed the Registry Act, it is 'An Act for a more particular return of Slaves in this Island, and the enrolment thereof;' the first clause directs that all holders and possessors of slaves on the 28th June, 1817, shall, on or before the 28th September, 1817, render

to the vestry clerk of the parish where such slaves are settled, worked, and employed, 'a true and faithful list or return in writing, or true and faithful lists or returns in writing, of all and every slave or slaves so possessed by him, her, or them;' and the clause proceeds to state that the name and other particulars by which such slaves might be identified, should be set forth in such *list or return*, according to a form or schedule marked A. After proceeding to give farther directions, and making other enactments respecting this first return of 1817, the act then goes on to provide for a triennial return; and accordingly, by the 4th clause, it is enacted, that all persons in possession of slaves on the 28th June, 1820, and in every third succeeding year, shall, on or before the 28th September then next ensuing, render to the clerk of the vestry 'a true and perfect list or return in writing, according to the schedule B annexed to the act;' and this section of this act proceeds to point out that this last '*list or return in writing shall, in the first place, state the total of males and females contained in the last return;*' and then it proceeds to direct how the return shall point out the increase and decrease of the slaves in the hands of the persons making such return; and this section contains an express direction in these words:—'*And at the foot of every such return required by this clause, there shall be stated in distinct lines the total number of slaves in possession on the 28th June, in the year of which such return shall be made, also in like manner the total number of births or deaths, since the last return.*' Certain clauses then follow as to the proceedings to be resorted to; first, for the recovery of penalties against persons omitting to make returns in conformity with the act, and then the manner in which slaves not registered should be proceeded against; but on these points it is quite unnecessary to comment. We are not trying the defendant in an action for that penalty, or an information filed after the recovery of such penalty; we are not now seeking how the slave is to be dealt with under the 57th Geo. III, chap. 15, section 17, with reference to the laws for abolishing the slave trade; but we are considering the right of this supposed apprentice to freedom under the 3rd and 4th William IV, chap. 73, *the law for abolishing slavery itself.* Having gone through so much of the act as applies to this case, let us now apply the law to the facts. We find the plaintiff was duly returned in 1817,

according to schedule A, and for several periods triennially, after 1829, he was not included in any list or return. I think the law as much requires that he should have been included in the number given in 1832, as in the list of names given in 1817, and I cannot see that it was less necessary that he should be returned according to schedule B in 1832, than in 1829 or 1820. If a triennial return was necessary in 1820, 1823, 1826, and 1829, it was also necessary in 1832, and if it was not necessary in 1832, then it was not necessary in 1820, and all these enactments of the 57th Geo. III, chap. 15, which directed triennial returns, are surplusage and powerless, and the intention of the legislature to prevent illicit importations of slaves, by means of ascertaining, after the year 1817, the number of slaves, at stated periods of three years, within the island, and in what manner the persons holding had acquired them, would have become a nullity; but I cannot so take it, the words 'perfect lists or returns' are used both with respect to schedule A and schedule B. The counsel for the defendant felt the force of this when put by the plaintiff's counsel, and he was about to contend that schedule A was a registration, and schedule B a mere return, but he could not support that argument on reference to the act.

"The law requires both kinds of returns for the purpose of enrolment, in the same strong operative language; in plain and express words, it directs both the first and subsequent returns, and fixes a penalty for omission in the '*first return, or any subsequent triennial return;*' it also requires that the number of slaves, of which the plaintiff formed one, and which had been progressively brought forward from the first triennial return in 1820 up to 1829, should have been stated, 'in the first place,' in a return to be made in 1832, and his decrease, if by death or purchase, accounted for. The defendant might have ascertained by a search in the secretary's office, if the plaintiff had been registered; and the 19th clause of 57 Geo. III, afforded him means, when he purchased the plaintiff in 1833, to apply to the governor at any time before the 31st August in that year, to amend the defective return of 1832. In considering this case, I have not allowed myself to look at the abolition acts as laws in favour of liberty, while I have viewed the Registry Act as a highly penal statute. Yet I cannot come to any other conclusion than that I have already stated. I am of opinion that the plaintiff being, on

the 28th of June, 1832, in possession of the same person who registered him as of the 28th June, 1829, and that person not having included him in any list or return, was not duly registered in conformity with the 57th Geo. III, cap. 15; that therefore he did not pass into apprenticeship under the first clause of 3rd and 4th William IV, cap. 73; and consequently that, as he was not subject to any of the obligations imposed by that act, he became, under the 12th clause, to all intents and purposes free and for ever manumitted."

His Honor the Chief Justice then delivered the judgement of the majority of the Court as follows:—

"*Bayley* v. *Ewart*.—This is an action of *homine replegianda*, brought for the purpose of deciding whether the plaintiff is entitled to his unqualified freedom, or whether he is under the obligation of serving the defendant in the capacity of a prædial apprentice, and as there was no dispute about the facts, the counsel very properly consented to the finding of a special verdict, which is as follows:

"That the plaintiff was registered as a slave in possession on the 28th June 1817, 1820, 1823, 1826, and 1829. That the plaintiff was not registered in 1832, or at any time subsequent to 1829. That he came by sale into possession of defendant by purchase in May 1833; and that there was no opportunity to make any subsequent registration.

"This state of facts raises the question, whether in the case of this plaintiff there has been such a registration of him as a slave, as will place him within the class of persons, who, under the first section of the Abolition Act, became apprentice labourers.

"It is impossible to say, that the case is without difficulty, which it was scarcely within the power of the legislature to avoid, when it is considered that the act was to have operated within nineteen colonies, in many (if not all of which) the laws relating to the registration of slaves are different, and therefore it is incumbent on us to discover, if we can, what was the intention of parliament, and see whether that intention cannot be fully and effectually worked out, and the rights of individuals still preserved. This intention is in our opinion clearly evidenced by the preamble, and the enacting part of the first section, which was not to deprive the owners of slaves altogether of their services, but to convert into apprentices all persons held in slavery above

the age of six years, and who had been duly registered as slaves; and, therefore, all in whose case these circumstances are not found are absolutely manumitted. That the plaintiff, before the passing of the Abolition Act, was holden in slavery, and above the age of six years, there is no doubt; and, therefore, the main point we have to consider is, what will satisfy the words, 'all persons, who, in conformity with the laws now in force in the said colonies respectively, shall, on or before the 1st day of August 1834, have been duly registered *as slaves* in such colony.'

"On this point it was contended, on the part of the plaintiff, that as the registration act makes a triennial return of slaves necessary; if any one return is wanting, there is no registration; and that, therefore, although the plaintiff was beyond all dispute legally held in slavery, but was not returned by his owner in 1832, he is absolutely free, and the defendant cannot now claim his services as an apprentice. If this argument on the part of the plaintiff be good it must go to this extent—that any one omission of a return since 1817 would render a slave free; as for instance, none in 1820, but regularly since that year, including 1832. I do not recollect that the argument was pushed to this extent, as the learned counsel appeared to rely on the want of a return at the last period preceding the Abolition Act; but if the position be correct, that to convert a slave into an apprentice, there must have been an exact compliance with the provisions of the Registration Act, viz.—a triennial return; then whether the omission be of an intermediate year, since 1817, or of 1832, the slaves not returned must now be free. I cannot conceive that any one will contend, that a slave registered with all the formalities required in 1817, and returned, with the exception of an intermediate period, regularly to 1832 inclusive, would not now be an apprentice; and if such an omission would not work his freedom, I cannot bring my mind to the conclusion, that the neglect to return in 1832 only, would deprive the master of the apprenticeship term; but for the defendant it was said, that duly registered as a slave, it is to be taken only as *prima facie* evidence of the servile condition of the party; and that any one registration by which his complete identity can be established, is sufficient to convert him into an apprentice—leaving him to establish that he has been illegally returned as a slave. To decide this point, it is necessary to consider the Registration Act of this

island (57 Geo. III. cap. 15), passed 'to guard against any possible infringement of the laws for abolishing the slave trade, and also to provide a more particular return of the slaves in this island,' and see whether the facts in this case show such a registration as the 3d and 4th William IV. requires.

"The first section of the Registration Act directs that on or before the 28th September then next following, a return shall be made of all slaves according to the form prescribed by schedule A, which states the name, sex, colour, age, and nation—everything which is in fact necessary to a complete identity of each slave. And the 4th section requires a triennial return; but in which, if there has been no increase by birth or purchase, or decrease by death or sale, the total of males and females is only stated—so that no registration, excepting the first, when there has been no change of property, would give any evidence of identity. The 12th section imposes a penalty on persons not making the return—whether the first or the triennial one, which, under the 13th section, is recoverable by action of debt; and when recovered, the Attorney-General, under the 14th section, is to file an information, *ex officio;* and the issue to be tried is, whether there has been an illegal importation of Africans or slaves, and the persons against whom the penalty has been recovered, may take the defence in his own name, and plead not guilty; and thereunder prove, that the slaves included in the information were not imported contrary to the slave-trade abolition laws; and by the 16th section, if the verdict shall be found, and judgment given for the defendant, the slaves in such information shall *be held and enjoyed in the same estate as before the trial;* and the original return shall be amended, or a new return made, under an order of the judges of the court in which the issue was tried. It is clear, therefore, that under this act a slave did not become free by reason of any omission to register, and equally clear that he might be legally held in slavery notwithstanding non-registration. Did the 3rd and 4th William IV intend to place the owners of slaves in a worse situation than they were under the Registry Act of this island, or did the Emancipation Bill require more than such a registry as would give *prima facie* evidence of servile condition, and clear evidence of identity? We think it did not. The first section states, that all persons duly registered *as slaves* (*as slaves* being important words in the con-

struction of this Act) shall become apprenticed labourers. Now what is duly registered as slaves? We think it means that record of the parties' name, age, sex, colour, and nation, which in this case was made in 1817, and not the gross numbers by triennial returns. In confirmation of this, the 12th section of 3rd and 4th William IV may be referred to, which declares that subject to the obligations imposed by the Act upon apprenticed labourers, all persons who, on the 1st August 1834, shall be holden in slavery within any British colony, shall, after the 1st August, become and be to all intents and purposes free, and discharged of and from all manner of slavery, and shall be absolutely and for ever manumitted; which we consider clearly shows that all persons legally held in slavery, and of whose servile condition there is evidence in any one registration, shall become apprenticed labourers. Whilst this construction of the Act preserves the right which the defendant had in the services of the plaintiff before the Abolition Act, for the term of the apprenticeship, which we think may fairly be considered as a part of the compensation, it works no injustice to the plaintiff, as he was a person legally held in slavery, and had been registered as a slave, with all the particulars of his name, age, sex, colour, and nation. That the 1st section only requires such a registration as contains all the particulars just mentioned, which shews the servile condition of the plaintiff, is, in our opinion, farther induced by the fact, that the two classes of individuals, viz. children under six years, and slaves who have been taken to England, are declared unconditionally free. If the legislature had intended that any one omission of a triennial return should work the freedom of a slave, where there is a full and complete registration of him on record, with all those particulars which are sufficient to establish his identity, we think there would have been a distinct enactment to that effect. None such, however, is to be found. The view we have taken of this case appears to me to be, in principle, the same as that of the Mauritius case by the Privy Council; and their decision is, I think, conclusive of the right of the defendant to the apprenticeship of the plaintiff. The point before the Privy Council was, so far as we have been able to ascertain the facts, whether the omission of some public officer to register the returns in the year 1832, made the slaves free under the 3rd and 4th William IV, on the ground that they were not duly registered in conformity

with the laws in force in that island. Now, if the slaves, by the operation of that Act had an absolute right to unqualified freedom, by any omission to make the return required by the laws of the island, then no matter by whom that omission was made, they should have been declared unconditionally free; and the owners, who had been damnified by the neglect of a public officer, would have had their remedy against him; and as this case is put on the ground that there is a right in all slaves to freedom, who have not been returned at any one period, and the Privy Council having by their decision denied such right in the Mauritius case, and as I am unable to distinguish any substantial difference in principle between an omission made by a public officer or the owner, we think, as I before said, this decision is conclusive of the defendant's right to the apprenticeship of the plaintiff. Many other points were pressed on the attention of the court, which we do not think it necessary to notice. We have given this case our best attention, and shall feel much satisfaction if our judgment should undergo the revision of a court of error. We are of opinion that the facts found in this special verdict make such a registration as the Abolition Act required, to convert a slave into an apprentice, and therefore the verdict must be entered for the defendant."

TO THE HONOURABLE C. P. BERRY, AND THE JURORS OF THE LATE GRAND INQUEST FOR THE COUNTY OF MIDDLESEX.

GENTLEMEN,—You have been pleased, in your presentment to their Honours, the Judges of the Supreme Court of Judicature in this island, after considerable vituperation and obloquy cast on other special magistrates, to make me the object of your peculiar hostility, and to assail me personally, in language and terms, the intemperance, precipitation, and party bias, betrayed by which, I readily persuade myself you warily guarded against, and utterly repudiated in the previous exercise of your sworn and responsible judicial functions.

Gentlemen,—Firm in conscious rectitude, alike of action and intention, I repel, with indignation and contempt, all and every part of your odious and libellous imputations. I solemnly declare, that whatever may be the grounds or motives on which you have come to such conclusions, that they are, in every particular, unjust, calumniatory, and untrue; and such I undertake to prove them, even to yourselves, if you are not ashamed, (the worst of shames,) to acknowledge an error—if you possess the moral courage to do justice to another at your own expense—if, in fine, you can only bring yourself to be one tythe part as dispassionate, as devoid of prejudice, and as deliberate in re-examining your opinions, as you have shown yourselves rash, partial, inconsiderate in adopting them.

Had you, gentlemen, not conceived it altogether a work of superfluity to consult the law, you might, by opening Blackstone, have learned, that as a grand jury hears the evidence on one side only, their presentment is in the nature of simple inquiry or accusation, not of proof or conviction; as you, gentlemen, have now either ingeniously discovered, or egregiously mistaken. Extend your legal research somewhat farther, and, after decision, do what, perhaps, it would have been as well to have done before it—look into the laws of the island—consult the act for the regulation of gaols and houses of correction, passed only two years since by the legislature, of which your worthy chairman was, at the time, and still is, a component part. Sect. 3, rule 2, would have disembarrassed your minds of any lurking doubts, whether or not prisoners in the House of Correction are entitled to a sufficiency of food. By sect. 7, you would have been instructed that "two or more justices are to be appointed to visit each gaol or house of correction, to examine into the behaviour and conduct of the respective officers, and the treatment and condition of the prisoners, and into all abuses in the prison or house of correction? Section 8 authorises any justice of the peace, of his free will and pleasure, to visit, as often as he thinks fit, for the purpose of inquiry into abuses. When you read the depositions which will be published, together with the certificates of sub-inspectors Dunne, Adams, and Serjeant Nicholson, who were present, you will find that the unhappy sufferers spontaneously deposed, not before me alone, but before Mr. Special Bedford also, that four heads of corn, and a little shad, formed the whole of their

subsistence from Friday morning until the Monday evening following. When you are farther told that I was acting all this time in compliance with the strict injunctions of the executive, on what do you base the foul charge of tampering with evidence, brought against me by twenty-three gentlemen, solemnly sworn to decide according to the truth, and to present or screen no man, from hatred, malice, fear, favour, or affection? Where is an allusion made to, or the name mentioned, of any member of that respectable body? Where did you gather that I charged them with authorising or countenancing the neglect or inhumanity of the supervisor of the House of Correction? or with even being aware that sufficient and proper nutriment was withheld from the prisoners? Again, gentlemen, permit me to enquire on what evidence submitted to you, you ascertained that I was troubled with private grievances? From which of the witnesses examined before you, did you collect this fact? Was it from Eleanor Lorrdine, the sick female, who testified before you, on oath, that she was kept chained by the neck, when ill, in the hospital? From Letitia, or Robert Valentine, who accused the supervisor of the House of Correction with nearly starving them? From Ann Francis, or Hanna Williams, who swore that they were heavily ironed, and worked out of the institution, in direct contradiction of the commitment of the special magistrate? Or, was it from Richard Francis, whose back appearing somewhat insensible, the keeper's deputy ingeniously resorted to the Turkish mode of administering the bastinado, and applied it to a part sufficiently sensitive, the poor creature's diseased foot? From which of these six injured persons, every indictment for the redress of whom you threw out? From which of these six, I ask—for, of thirteen witnesses of the Crown in attendance, it pleased you to examine only six,—did you contrive to discover what did not exist, was not in case, that the special magistrate of St. John's had private grievances to complain of, or to avenge? The indictments were not preferred in refutation or revenge of any wrongs, either real or fictitious, as you, gentlemen, gratuitously and unwarrantably assume; but to prove principles, and to set at rest the questions, whether, females committed for detention as runaways, are subject to be worked out of the establishment, and in irons; whether the commitments of apprentices, by special magistrates, have the weight of law, and are to be complied

with, and enforced; or whether they are unmeaning and idle scraps of papers, the injunctions of which can be disregarded, altered, set aside, or added to, at the pleasure of the senior magistrate, or other parochial authority.

Gentlemen—By rejecting these bills, supported, as you would have found them, by an overwhelming weight of evidence, had you not dispensed with the ordinary and not universal precaution of examining the witnesses in attendance; you have done much, I fear, to justify the imputations of those who are by some styled enemies to Jamaica. Will they not now triumphantly contend, that the chaining of sick and diseased apprentices in hospitals has been pronounced the lawful and ordinary course in this island by the grand inquest of the country? That you have reprobated, with all the indignation and force of language your incensed feelings at the time supplied you with, the attempt of a lawfully constituted authority to check so monstrous a practice, as a general nuisance.

Gentlemen—it will be asserted, and without fear of contradiction, that you have designated an effort to bring to justice an individual, for maliciously and cruelly beating a prisoner on a diseased part of his body, as a general nuisance.

Gentlemen—Mr. Batty, a distinguished counsel, whose attachment to Jamaica is at least equal to your own, in conjunction with Mr. Price Watkins, gave it as their joint opinion, in their reply to certain questions proposed to them by the Corporation of Kingston, that deserters sent only to the House of Correction for detention, cannot be worked in chains. Your alleged enemies, Gentlemen, will declare that you have represented a magistrate, for holding the same opinion with your favourite counsel, as a general nuisance.

Gentlemen—The law which I have already cited, enacts that it is the bounden duty of a magistrate to make strict research into the treatment of prisoners. You surely will yourselves admit the quality and quantity of food allotted to them to be most essential, as starvation may haply be the consequence of continued and habitual neglect; yet, Gentlemen, it will be loudly proclaimed throughout these colonies, the mother-country, and the whole civilized globe, that the Grand Inquest of Jamaica has denounced all such inquiries, as a general nuisance.

Such, Gentlemen, will be the assertions of those whom you hold to be your enemies; nor will they, in support

of their conclusions, fail to dwell on the following facts:—

You threw out every bill sent in at the instance of a special magistrate.

You returned a true bill on every indictment sent in against a special magistrate.

Of thirteen witnesses for the crown in attendance, whose names were all before you, to prove the facts stated in the indictments, you examined only six, neglecting or omitting to call in the remaining seven.

You ignored a bill against Patrick Thomas, for assaulting and ill-treating apprentices in the house of correction, without taking a single deposition in support of it.

On the other hand, you found a true bill, and took the depositions in the case of Special Justices Baynes and Bedford, though the evidence before you was not on oath, on which ground, the Gentleman first mentioned, to your considerable mortification no doubt, quashed your finding in open court.

Gentlemen,—I doubt not of your concurrence when I say, that no upright judge, nor conscientious juror, will pronounce the decisive fiat of condemnation without hearing both sides of the question; nor be at all desirous of meriting a share of Seneca's ironical encomium on the imbecile, besotted, and contemptible Claudius:

"Quo non alius,
Dicere causas,
Potuit citius,
Parte Auditâ,
Una tantum,
Sæpe et necitra."

Permit me, Gentlemen, without any peculiar reference, to observe, that a greater moral delinquency, whether in judge or juror, than carrying party feelings, or private enmity, to the judgment seat, does not exist. An impartial and upright judge will carefully eschew the bare suspicion of such unpardonable dereliction of the duties of the most august and responsible functions with which humanity can be invested. Kings were formerly held to be God's vicegerents on earth; judges are so at present; it is theirs to punish crime, to uphold the right, to repress injustice, to redress wrongs, to protect the lives and properties of their fellow-citizens. On the bench they should have neither party prejudice nor passion; at their bar they should know

neither friend nor enemy. But, Gentlemen, to pervert this high and holy office into an engine of oppression—to view the accused through the lens of party interest or private affection—to farther the purposes of faction, or gratify particular resentments—is to destroy and confound, especially in a nascent community, all sense of moral discrimination; to strike at the foundation of all society, by prostrating the barrier between right and wrong; to pollute and poison the stream of civilization at its source; and under the mask of justice, to rear up and plant injustice in her stead. In such hands, Gentlemen, the balance of Astræa resembles the rod of Moses, which on the ground became a serpent.

Gentlemen, I fear that I have occupied your attention too long; and, therefore, now, leaving your presentment with the court, your motives with the public, and your conscience with your God,

"Verbum non amplius addem,"

E. Dacres Baynes.

Saint John's, November 8, 1836.

EXTRACT OF A DESPATCH FROM THE SECRETARY OF STATE TO SIR LIONEL SMITH, DATED JANUARY 16, 1837.

No. 40.—"But while for the present I pass over these topics, I cannot postpone the notice of another, which is pressed on my attention, both by the presentment of the Grand Jury, and by your despatch. I refer to the imputations cast by that body upon the Special Justices, Mr. Baynes and Dr. Palmer.

"Mr. Baynes is accused of having instigated negroes to complain of the quantity of food allowed in the St. John's workhouse. The magistrate is declared a slanderer, and is denounced as having used the cloak of his authority to avenge his private grievances. On the authority of a letter addressed to the foreman, Dr. Palmer is represented as having, at a social meeting, uttered improper expressions; and then assuming the truth of all that is said by the unnamed writer of this letter, the Grand Jury proceed to found upon it a very strong denunciation of the conduct of Dr. Palmer.

"It is, I am aware, difficult or impossible to define precisely the boundaries of the power of the Grand Juries, in bringing under the notice of the court whatever they may regard as a violation of the law. We can look only to usage and to the immutable principle of justice; and I must avow the difficulty which I find to reconcile the proceedings on this occasion with either.

"First, as to usage. So far as my information extends, no Grand Jury in this country has ever attempted to convert its presentments into a vehicle for impugning the conduct of individuals, either in their public capacity or in private life, except when such charges have been relevant to the matter of some indictment to be preferred against the parties so accused. Neither am I aware, that any Grand Jury in England has ever drawn up such accusations in the controversial and reproachful style employed in this presentment. Still less can I suppose, that Grand Juries are accustomed to found such heavy imputations upon the mere quotation to them, by one of their own number, of a letter received by him from some unnamed correspondent.

"As to the justice of this proceeding, it is obvious, that no reputation is safe, if any body of gentlemen are at liberty thus to promulgate charges of which the accused party has no notice, and which it is impossible for him to bring to the test of a judicial inquiry. Messrs. Baynes and Palmer had it not in their power to insist upon indictments being framed against them, because the imputed offences, however grave, were not of an indictable nature. Neither could they bring actions for defamation against their accusers, because the Grand Jury are, of course, privileged against any such responsibility. Thus, these gentlemen could have no recourse except in an appeal to the public journals, a remedy to which it is scarcely reasonable that any of the king's subjects should be left. Nor can I perceive any necessity for such a mode of bringing forward a charge against a public officer. If any party had a reasonable ground of complaint against any special magistrate, that complaint might, without difficulty, be preferred to the Governor, by whom such an investigation could be directed, as he might think it his duty to institute, with a view to that redress, which he has in such case the power of applying.

"As to the truth of the charges, it is my duty to offer some observations. Mr. Baynes has adduced, in refutation

of the charges affecting him, such evidence, as I am bound to declare, not only satisfactory, but complete. Whether it is possible to repel the force of his proofs by any counter testimony, I am, of course, unable to determine. But, confining myself to the documents before me, I must regard this gentleman as having been subjected to an imputation, as unfounded as it is serious. With respect to Dr. Palmer, whatever views I may entertain of his conduct, as exhibited in other parts of your correspondence, and allowing that some want of caution was evinced by him on the occasion in question, I am constrained to admit, that he has refuted the substance of the charge made against him by the Grand Jury, by showing that the words spoken by him, do not require or warrant the construction which they have received. Yet, both Mr. Baynes and Dr. Palmer remain burthened with these disgraceful imputations before the public at large. Nor do I know how they can be fully relieved from the effect of these imputations. It is, however, but due to them, that publicity should be given to the enactments, which I have felt it my duty to address to you, with reference to this case.

"I have, &c. &c.

"GLENELG.

(*True extract*) "C. H. DARLING, Sec."

FINIS.


RHODES HOUSE
OXFORD